

*United States Court of Appeals
for the Second Circuit*



APPENDIX

75-1319 *B
PPS.*

To be argued by
Edward C. Weiner

In The
United States Court of Appeals
FOR THE SECOND CIRCUIT
Docket No. 75-1319

=====+=====

UNITED STATES OF AMERICA, Plaintiff-Appellant,

—v.—

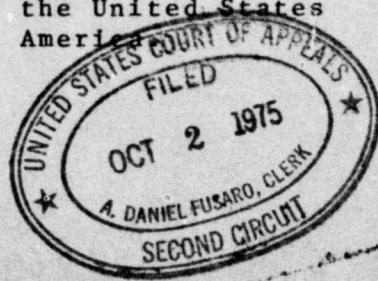
ESTELLE JACOBS
a/k/a "Mrs. Kramer," Defendant-Appellee.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

APPENDIX

EDWARD C. WEINER,
Special Attorney,
United States Department of Justice.

DAVID G. TRAGER,
United States Attorney for the
Eastern District of New York,
Attorney for the United States
of America



4

PAGINATION AS IN ORIGINAL COPY

INDEX TO APPENDICES

	Page
DOCKET ENTRIES	1

APPENDIX A

Indictment returned on November 11, 1974	A-1
---	-----

APPENDIX B

Interview of Estelle Jacobs by Federal Bureau of Investigation on September 13, 1973	B-1
--	-----

APPENDIX C

"Interrogation; Advice of Rights" form executed by Estelle Jacobs on September 13, 1974	C
---	---

APPENDIX D

Complete Grand Jury transcript of Estelle Jacobs on June 10, 1974	D-1
--	-----

APPENDIX E

Complete Grand Jury transcript of Estelle Jacobs on November 4, 1974	E-1
---	-----

APPENDIX F

Memorandum and Order of the Honorable Edward R. Neaher dated July 21, 1974	F-1
---	-----

APPENDIX G

Special Attorney authorization letter and attached memorandum	G-1
--	-----

DOCKET ENTRIES

74CR 703

NEAHER, J.

TITLE OF CASE		ATTORNEYS
THE UNITED STATES		For U. S. Attorney & R. St.
vs. ESTELLE JACOBS a/k/a "Mrs. Kramer"		
		For Defendant:

give
Threat to injure and did/false statements to Grand Jury

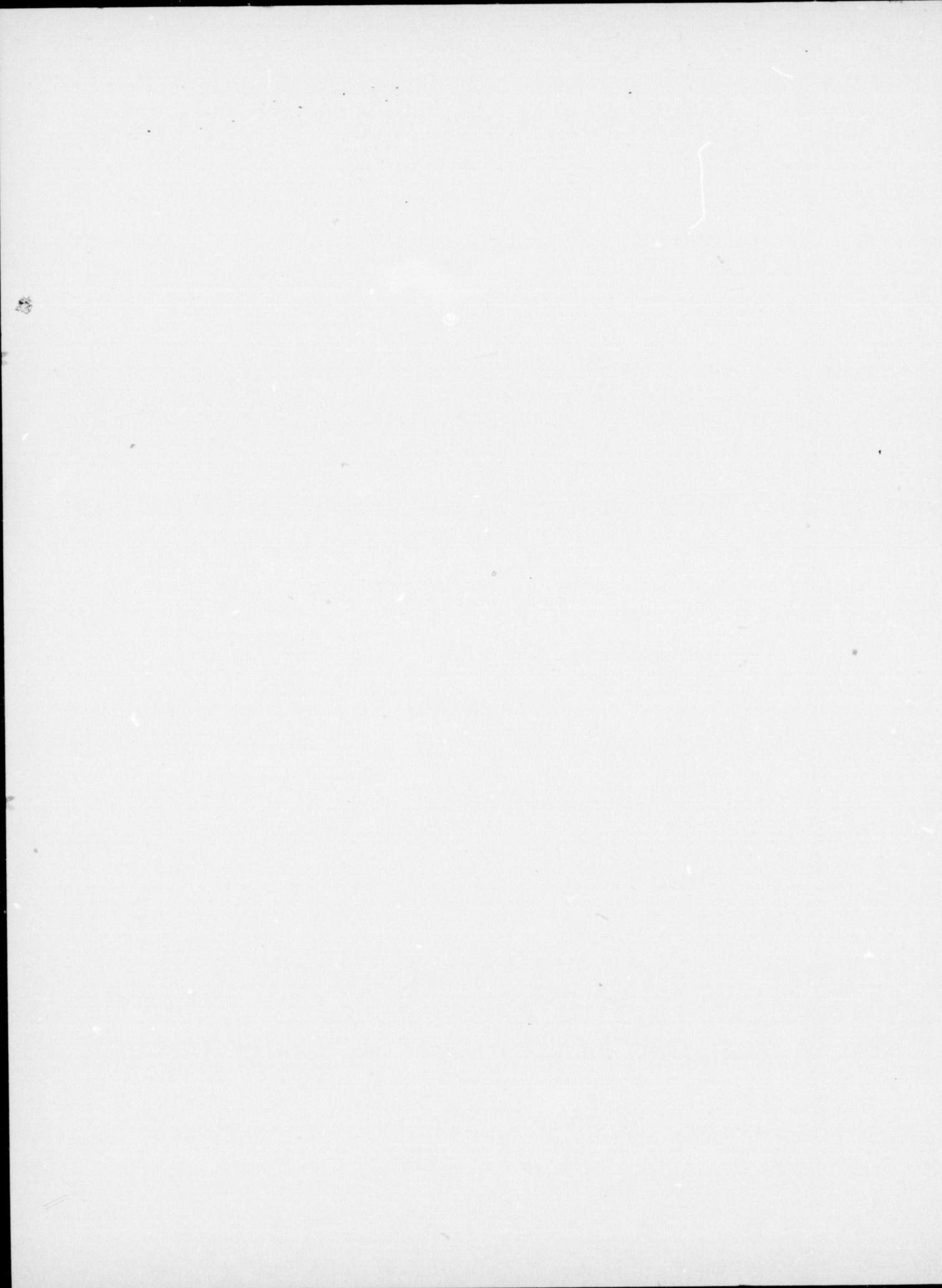
ABSTRACT OF COSTS	AMOUNT	CASH RECEIVED AND DISBURSED			
		DATE	NAME	RECEIVED	DISBURSED
Fine,					
Clerk,					
Marshal,					
Attorney,					
Commissioner's Court,					
Witnesses,					

DATE	PROCEEDINGS
11-11-74	Before WEINSTEIN J - Indictment filed.
11/22/74	Before NEAHER, J.- Case called- Pleading adjd to 12/3/74 at 10:00
12-3-74	Before Neaher, J - case called - deft present with counsel - Deft arraigned and enters a plea of not guilty - case set down for status report for Jan. 28, 1975 at 10:00 am - bail fixed at \$10,000 P/R bond.
12-27-74	Magistrate's file 74 N 1681 inserted into CR file.
1-28-75	Notice of Readiness for Trial filed.
1-28-75	Before NEAHER, J - case called - deft & atty Patrick Wall present - case set for trial for June 23, 1975 at 10:00 am-all motions to be filed not later than March 14, 1975.
4/28/75	Govt's memorandum in response to various pre-trial motions filed
5-15-75	Notice of Motion filed for evidentiary hearing, dismissal of all

74CR 703

DATE	PROCEEDINGS	CLERK'S FEES	
		PLAINTIFF	DEFENDANT
	counts, etc. received from Chambers with letter dated 4-25-75 from Edward Neamer, Special Atty. Strike Force		
6-6-75	Before NEAMER, J - case called - deft & counsel I.P. Seidman present - defts motion argued and decision reserved.		
6-20-75	Before NEAMER, J - case called - deft Jacobs not present - counsel I. Seidman present - adjd to Dec. 1, 1975 for trial.		
7-21-75	By NEAMER, J - Memorandum and Order filed on defts motion for dismissal. The court concludes that the entire Grand Jury proceeding was a violation of Jacobs due process rights under the Fifth Amendment. Consequently, all her grand jury testimony must be suppressed and the perjury count, being based solely upon such testimony, must be dismissed. Defts various motions to dismiss are otherwise denied in accordance with the views expressed by the court at oral argument. Discussion of any other outstanding matters is reserved for Sept. 18, 1975 at 10:00 am at which time a prompt date for trial will be set.		

APPENDIX A



UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

ONLY COPY AVAILABLE

UNITED STATES OF AMERICA

No. 74 CR 703

v.

INDICTMENT

ESTELLE JACOBS
a/k/a "MRS. KRAMER"

18 U.S.C. §875(c)
18 U.S.C. §1623

Defendant.

THE GRAND JURY CHARGES:

COUNT ONE

1. At all times material to this Indictment:

a. V.I.P. Plus was a New York corporation primarily engaged in the business of organizing gambling junkets with offices at 551 Fifth Avenue, New York, New York.

b. Check Adjustment Bureau was a New York corporation engaged in the debt collection business with offices at 29-9 Long Beach Road, Oceanside, New York.

c. Defendant ESTELLE JACOBS a/k/a "MRS. KRAMER" was employed as a collector for Check Adjustment Bureau, Oceanside, New York from April 2, 1973, to June 20, 1973.

d. Harry W. Stonesifer, Jr. used the name of his brother, William D. Stonesifer, on a gambling junket to Puerto Rico during March 1973 in which he incurred a debt of \$5,160; the junket was organized by V.I.P. Plus.

ONLY COPY AVAILABLE

e. William D. Stonesifer was the owner of Lincoln Park Shell Station located at 275 Comley Road, Lincoln Park, New Jersey.

2. On or about May 22, 1973, in the Eastern District of New York, defendant ESTELLE JACOBS a/k/a "MRS. KRAMER" did unlawfully, willfully, and knowingly transmit in interstate commerce from Oceanside, New York to Lincoln Park, New Jersey a telephone communication to William D. Stonesifer, which telephone communication contained a threat to injure the person of Harry W. Stonesifer, Jr.

[In violation of Title 18, United States Code, Section 875(c)]

COUNT TWO

1. On or about June 10, 1974, in the Eastern District of New York, defendant ESTELLE JACOBS a/k/a "MRS. KRAMER," having duly taken an oath that she would testify truthfully before a Grand Jury of the United States of America, duly empanelled and sworn in the United States District Court for the Eastern District of New York, and inquiring for that District into violations of Federal law, did unlawfully, willfully, and knowingly make false material declarations as hereinafter set forth.

ONLY COPY AVAILABLE

2. At the time and place aforesaid, the Grand Jury was conducting an investigation into possible violations of Title 18, United States Code, Section 894 (extortionate credit transactions), Title 18, United States Code, Section 1952 (racketeer influenced and corrupt organizations), and other Federal criminal statutes.

3. It was material to the investigation described in paragraph 2 hereof that the Grand Jury ascertain whether defendant ESTELLE JACOBS threatened Harry W. Stonesifer, Jr. and others with the use of violence and other criminal means to collect extensions of credit.

4. At the time and place aforesaid, defendant ESTELLE JACOBS, appearing as a witness under oath before the Grand Jury, did testify falsely with respect to the aforesaid material matter as follows:

Q I'm going to read some direct quotes to you, Mrs. Jacobs, and I want to know whether or not you said them?

"MRS. KRAMER: Well, you know what's going to happen to him one of those days.

BILL: Well, he's going to die anyhow that's besides the point.

MRS. KRAMER: Sooner than he expects.

BILL: No, I don't.

MRS. KRAMER: Sooner than he expects. Maybe it's going to be painful to be honest with you."

ONLY COPY AVAILABLE

A I never said that.

Q Are you absolutely positive that you never said that.

A Absolutely positive.

Q You never said to anyone these words, "Maybe it's going to be painful, to be honest with you."

A I never said it. I know I'm under oath.

"BILL: Well, you know it's got nothing to do with me.

MRS. KRAMER: I mean it's really a shame, but he's gonna get his pretty soon, just a matter of hours to be honest with you and as I told you, I'm being honest with you. We didn't like going into mother, but we will.

BILL: Well, you know."

Q Did you say, "But he's going to get his pretty soon?"

A I did not.

Q You absolutely deny that statement?

A Yes. I deny it.

ONLY COPY AVAILABLE

5. The aforesaid testimony of defendant
ESTELLE JACOBS a/k/a "MRS. KRAMER," as she then and
there well knew, was false.

[In violation of Title 18, United States Code, Section 1623]

A TRUE BILL,

/s/ Ralph Wilkinson

FOREMAN

/s/ David G. Trager
DAVID G. TRAGER
United States Attorney

APPENDIX B

FEDERAL BUREAU OF INVESTIGATION

ONLY COPY AVAILABLE

9/14/73

Date of transcription

ESTELLE JACOBS was interviewed at her residence, 51 Keller Street. At the outset she was furnished a form entitled "Interrogation; Advice of Rights" by SA MARTIN A. CROWE. She read the form and executed a "Waiver" thereon. She then furnished the following information:

JACOBS advised she has been employed in the collection of bad debts for the past 25 years. During the last week of March or the first week of April, 1973, she took a job with the Check Adjustment Bureau, 2949 Long Beach Road, Oceanside, New York. She worked there until June 22, 1973.

JACOBS advised that she obtained the job through WALTER COX, who runs Prompt Reports in Mineola, New York. She has known COX for many years through the collection business.

She was hired by FRANK PROVENZANO. She worked on a salary plus commission basis. Her salary consisted of \$125 on the books and \$100 off the books. She never did receive any commissions.

She did not like working for FRANK PROVENZANO. He carried a hand gun all the time. He claimed he had a permit for the gun. His partner in the business was CLAIRE, Last Name Unknown, who acted as a secretary and who appeared to be his girl friend.

She advised that one of her jobs was "skip tracing", which she explained was locating a person who owed money. When she first went to work for PROVENZANO he had many accounts from Times Square Stores. However, these accounts had already been worked by Times Square's own collection department. PROVENZANO also had delinquent accounts from the Nassau County Medical Center in East Meadow, New York.

Interviewed on 9/13/73 at Valley Stream, New York File # NY 179-780
 by SAs MARTIN A. CROWE and MARTIN J. BOLAND File # NYB:obj Date dictated 9/13/73

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

ONLY COPY AVAIL E

NY 179-780

2.

Through an individual named DAVE WOODS, whom she described as a junketeer, PROVENZANO obtained "markers" from a Las Vegas hotel called the Circus-Circus. She recalled he had 3 or 4 of these accounts. She recalled one of them involved an individual named HARRY STONEFIFER, who owned a gambling debt to the hotel. She recalled talking to a woman in the personnel department of a New York City hospital who told her that HARRY STONEFIFER had left town telling her that someone was looking for him. She later located HARRY STONEFIFER's mother and brother. She spoke to the brother, name unrecalled, several times on the phone. He eventually told her that HARRY was employed by Cooper Labs in New York City. She recalled that the brother was contacted by her in New Jersey. She also advised that she had used the name "Mrs. KRAMER" when making these calls to locate HARRY.

JACOBS advised that she did not "rag" HARRY's brother when she spoke to him on the telephone as she was hoping to ascertain HARRY's whereabouts from the brother. She explained that "rag" meant harass.

She advised that her last day was June 22, 1973, with the Check Adjustment Bureau. She asked CLAIRE for her pay and CLAIRE told her she didn't have it. She later called PROVENZANO and told him she was quitting. She sent her son down to get her pay check. When she got it she realized that PROVENZANO had docked her for a day and a half that she was home sick. She called to complain since she never took a lunch hour. During the conversation PROVENZANO told her "You threaten me kid and you won't walk the streets".

On September 12, 1973, PROVENZANO called her at home and told her that 2 Federal Bureau of Investigation Agents came to the office looking for a "Mrs. KRAMER". He told the Agents who "Mrs. KRAMER" was. She was mad at PROVENZANO for telling the Agents.

ONLY COPY AVAILABLE

NY 179-780

3a

On September 12, 1973, she spoke with CARRIE EFFERSTEIN (FM), who currently works for PROVENZANO. EFFERSTEIN told JACOBS that PROVENZANO was with the Federal Bureau of Investigation Agents for 45 minutes and told them that she, JACOBS, was jealous of his relationship with CLAIRE and the fact that CLAIRE was a partner in the business and that JACOBS was not a good collector. She said that this was untrue.

She advised that PROVENZANO used the name FRANK PRO when talking to the collection managers in Las Vegas. He claimed his uncle had connections. She described him as a white, male in his 50's, tall, grey hair, mustache, who resides in Massapequa, New York.

The following was obtained by observation and interview:

Name:	ESTELLE JACOBS, Nee PEARLMAN
Also Known As:	Mrs. Kramer
Race:	White
Sex:	Female
Date of Birth:	March 11, 1926
Residence:	51 Keller Street Valley Stream, New York
Husband:	IRVING, employed Sales Manager, Sachs, New York
Son:	MITCHELL, age 18
Daughter:	LORI, age 15

APPENDIX C

INTERROGATION; ADVICE OF RIGHTS

YOUR RIGHTS

Place 51 Kellen St.
 Date 9-13-73
 Time 1:20 pm

Before we ask you any questions, you must understand your rights.

You have the right to remain silent.

Anything you say can be used against you in court.

You have the right to talk to a lawyer for advice before we ask you any questions and to have him with you during questioning.

If you cannot afford a lawyer, one will be appointed for you before any questioning if you wish.

If you decide to answer questions now without a lawyer present, you will still have the right to stop answering at any time. You also have the right to stop answering at any time until you talk to a lawyer.

WAIVER OF RIGHTS

I have read this statement of my rights and I understand what my rights are. I am willing to make a statement and answer questions. I do not want a lawyer at this time. I understand and know what I am doing. No promises or threats have been made to me and no pressure or coercion of any kind has been used against me.

Signed

Witness: James S. Currin, SA FBI, Garden City, N.Y. 9-13-73
 Witness: Martin J. Poland, FBI, Garden City, N.Y. 9/13/73
 Time: 1:23 pm

APPENDIX D

1 UNITED STATES DISTRICT COURT

2 EASTERN DISTRICT OF NEW YORK

3 -----X
4 UNITED STATES OF AMERICA

5 -against-

Criminal Folder

6 ESTELLE JACOBS, A/K/A MRS. #
7 KRAMER, FRANK PROVEZANO, A/K/A
8 JAMES HUNTER CHECK ADJUSTMENT
9 BUREAU

10 -----X
11 225 Cadman Plaza East
12 Brooklyn, New York

13 June 10, 1974

14 GRAND JURY MINUTES

16 Presented by:

17 EDWARD P. WEINER, ESQ.,
18 Assistant United States Attorney

20 Reported by:

21 Howard A. Goodman

22 Witness:

23 ESTELLE JACOBS

1
2 E S T E L L E J A C O B S , having first been duly
3 sworn, assumed her seat as a witness and testified
4 as follows:

5 EXAMINATION BY

6 MR. WEINER:

7 Q What is your name?

8 A Estelle Jacobs.

9 Q Where do you reside?

10 A 51 Keller Street, Valley Stream, Long Island.

11 Q Have you been known by any other name other
12 than Mrs. Jacobs?

13 A No.

14 Q You were never known by any other name?

15 A Yes, in business, I have been known as --.

16 Q What are these other names?

17 A In business, I have used other names. I have used
18 several names. It's difficult to remember over the years.

19 Q Well, try and list them for us?

20 A I used Mrs. Kay. I also used Mrs. Kramer quite a
21 bit in my last job. The spelling of that is K-R-A-M-E-R.
22 I don't recall at the present anything else that I may
23 have used.

24 Q What is your maiden name?

25 A Pearlman.

1
2 Q And now, you presently reside at 51 Keller
3 Street?

4 A That's right.

5 Q And now, what is your present occupation?

6 A Well, I guess, I would check for skip tracing.

7 Q Mrs. Kramer, I want to explain to you your
8 various Constitutional rights that you have as a witness
9 who appears before a Federal Grand Jury. I want to tell
10 you that this is a Federal Grand Jury inquiring into the
11 possibility of a violation of the Federal Criminal Law,
12 and the first right you have is the right under the Fifth
13 Amendment to refuse to answer any question that you feel
14 might tend to incriminate you; do you understand what
15 your rights are under the Fifth Amendment?

16 A Yes.

17 Q At any time you feel the questions I am
18 asking may tend to incriminate you, you will not be
19 obliged to answer those questions; do you understand that?

20 A Yes, I do.

21 Q And now, do you understand that the Fifth
22 Amendment privileges against self-incrimination, that that
23 privilege is extended to you and not to any information
24 or to any other individual that might be incriminated; do
25 you understand that right?

ONLY COPY AVAILABLE

1 A Yes, I do.

2 Q Now, the next right you have under the
3 Sixth Amendment, is the right to counsel; you can have
4 a lawyer of your choice outside of the Grand Jury room
5 to assist you with any questions that you may have a
6 question with. You may have a question about the procedures
7 or any specific questions, that you may have an opportunity
8 to leave the Grand Jury room and consult with your attorney;
9 do you understand that right?

10 A Yes, I do.

11 Q Do you have an attorney with you today?

12 A No, I do not.

13 Q Now, do you feel the need of one?

14 A I do not.

15 Q And now, at any time you feel like stepping
16 outside the Grand Jury room to call an attorney or consult
17 with an attorney, you let us know and we'll give you that
18 opportunity.

19 A Fine.

20 Q Now, I want you to understand that there
21 are Federal Laws against perjury. Perjury is a very
22 serious offense; do you understand that?

23 A Yes.

24 Q Do you understand what perjury is?

ONLY COPY AVAILABLE

1 A Yes, I do.

2 Q And now, in your present occupation as a
3 skip tracer, or collector, are you presently employed by
4 any individual or corporation?

5 A No, I gave my notice in last week.

6 Q By whom were you employed at that time?

7 A I was employed for Walter Cox at Prompt Reports.

8 Q How long have you been working for Mr. Cox
9 at Prompt Reports?

10 A Off and on, I would say about 5 months. Part-time.

11 Q Part-time?

12 A Yes.

13 Q What was your salary?

14 A Well, I was employed as a weekend worker. It's
15 hard to say. The salary varied. I was an independent
16 worker. There were times that Mr. Cox would give me
17 \$200.00 and there were times he wouldn't give me anything.
18 It would vary as to how often I would come in.

19 Q Did you work on commission?

20 A An independent worker does work on commission basis.
21 It depended on who you located and how much you collected
22 and so forth.

23 Q Can you give me an idea or any approximation
24 of the basis of per cent of commission that you would get

1 on a collection?

2 A I wasn't on a percentage basis. Maybe I explained
3 that incorrectly. I was employed independently and he
4 varied my salary roughly for about a year or two. He
5 gave me \$200.00 each week.

6 There were times when I only worked an hour a day
7 and there were days I didn't work. It's hard to say
8 how much I collected. How much came into the office.

9 Q Now, prior to your job with Mr. Cox, where
10 did you work?

11 A I worked -- I recall the name. I worked for Frank
12 Provezano.

13 I'm a little nervous now. It's hard to recall
14 exactly the name of the company he used.

15 Q Now, was it Check Adjustment Bureau?

16 A That's right. It went under another name --
17 Mel -- I don't recall it at the present.

18 Q How long did you work for Mr. Provezano?

19 A Roughly for about 10 to 12 weeks.

20 Q Did he give you a salary that you agreed
21 with him on?

22 A Well, when Mr. Provezano interviewed me for the
23 position prior to the time that I said I would take it,
24 I told him that I wanted a minimum of \$300.00 a week.

ONLY COPY AVAILABLE

1 A Yes, I do.

2 Q And now, in your present occupation as a
3 skip tracer, or collector, are you presently employed by
4 any individual or corporation?

5 A No, I gave my notice in last week.

6 Q By whom were you employed at that time?

7 A I was employed for Walter Cox at Prompt Reports.

8 Q How long have you been working for Mr. Cox
9 at Prompt Reports?

10 A Off and on, I would say about 6 months. Part-time.

11 Q Part-time?

12 A Yes.

13 Q What was your salary?

14 A Well, I was employed as a weekend worker. It's
15 hard to say. The salary varied. I was an independent
16 worker. There were times that Mr. Cox would give me
17 \$200.00 and there were times he wouldn't give me anything.
18 It would vary as to how often I would come in.

19 Q Did you work on commission?

20 A An independent worker does work on commission basis.
21 It depended on who you located and how much you collected
22 and so forth.

23 Q Can you give me an idea or any approximation
24 of the basis of per cent of commission that you would get

ONLY COPY AVAILABLE

2 on a collection?

3 A I wasn't on a percentage basis. Maybe I explained
4 that incorrectly. I was employed independently and he
5 varied my salary roughly for about a year or two. He
6 gave me \$200.00 each week.

7 There were times when I only worked an hour a day
8 and there were days I didn't work. It's hard to say
9 how much I collected. How much came into the office.

10 Q. Now, prior to your job with Mr. Cox, where
11 did you work?

12 A I worked -- I recall the name. I worked for Frank
13 Provesano.

14 I'm a little nervous now. It's hard to recall
15 exactly the name of the company he used.

Now, was it Check Adjustment Bureau?

17 A That's right. It went under another name --
18 Mel -- I don't recall it at the present.

Q. How long did you work for Mr. Provezano?

A Roughly for about 10 to 12 weeks.

21 Q Did he give you a salary that you agreed
22 with him on?

23 A Well, when Mr. Provezano interviewed me for the
24 position prior to the time that I said I would take it,
25 I told him that I wanted a minimum of \$300.00 a week.

ONLY COPY AVAILABLE

Otherwise, I wouldn't be taking the job. He agreed plus a certain per cent of the business that would come in. He agreed to those terms.

Q Now, was this verbally or in writing, the terms that were reached?

A It was a verbal agreement.

Q Now, during this 10 or 12 weeks, how much, in commission, did you make in addition?

A I wasn't on a commission basis for Mr. Provezano.

Q You were not?

A No, I was not. I was hired to manage the office for him and set up the accounts and so forth. When things got going, I would get a certain percentage of the money that came in. I wasn't on a commission basis.

Q You never did get a per cent of the money?

A No, I did not.

Q Now; could you focus in on the specific dates as best you can that you worked for Mr. Provezano?

A I believe it was either the last week in March or the first week in April. I don't recall, or the second week in April. I don't recall in what period of time I went back to work for him.

Q In 1973?

A 1973.

ONLY COPY AVAILABLE

2 Q You worked the next 10 or 12 weeks?

3 A That's right.

4 Q Continually?

5 A That's right. . .

6 Q Now, some point in time, you severed your
7 job with Mr. Provezano?

8 A That's right.

9 Q Could you tell what the circumstances were
10 in which you severed maintaining employment with him?

11 A It was personal differences. Pay day was during
12 the week on Wednesday; actually, three days was held up
13 by the clerk. 5 o'clock rolled around and I didn't get
14 my pay. The young lady usually gave me a check every
15 Wednesday evening.

16 Q Let me ask you this: Do you remember her
17 name?

18 A Her first name was Clara. The last name I don't
19 remember.

20 Q Was her last name Knowles (phonetic).

21 A She used a few names. I'm not sure what it was.

22 Q Now, will you continue to tell us what else
23 happened?

24 A Well, I didn't get my pay. I was very upset and I
25 told the young lady to tell Mr. Provezano to come over

ONLY COPY AVAILABLE

1 with my pay or I was terminating the job.

2 Q Did you have a conversation with Mr. Provezano?

3 A Yes, he called me at my home and asked me to come
4 down to the office where my desk would be there and my
5 check would be there. I think I refused and told him I
6 didn't want to work for him any more. I sent my son down
7 there to pick up my pay.

8 Q Now, had you any discussion with Mr. Provezano
9 since that time?

10 A One.

11 Q When was that?

12 A This goes back sometime to last year. I was
13 interviewed by the F.B.I. They were over at my home
14 interviewing me and I was quite upset about it. They
15 were looking for me to talk to me and Frank called me up
16 after the interview. I said that they asked me a series
17 of questions -- who worked certain accounts. I said, "
18 You did."

19 I said, Frank, let's forget the whole issue that
20 they called me up to discuss this. Mainly the last
21 conversation with Frank Provezano amounted to nothing.

22 Q How did you get your job with Mr. Provezano?

23 A Well, Walter Cox, Mr. Cox worked for Coburn Credit.

24 Q When was that?

2 A That I guess was several years ago. It's going to
3 be hard to remember right now. It may have been 1972.

4 Q Now, how long had you known Walter Cox?

5 A I think from Coburn, roughly, we worked together
6 3 months, tops. That was how long.

7 Q Now, you first met him sometime in 1972?

8 A That's right.

9 Q And now, did you maintain some sort of contact
10 with him since then?

11 A On occasion, he would call me maybe once a year or
12 maybe twice a year to say hello, where are you working and
13 so forth.

14 Q Okay, Mr. Jacobs, I want to get some idea
15 of the prior work you have held prior to working with
16 Mr. Provezano; where you have worked and what you did?

17 A Prior to this time, I worked for Colonial Customer
18 Operations since I am out here in Long Island. I worked
19 for Franklin National Bank. I worked for the National
20 Educational Products. I started in business, this goes
21 back years in Brooklyn for Melmac Company. They're
22 the broken dishes. You bring these dishes in and so forth.

23 I have been in the business, this business for the
24 past 20 years. I was also in collection and skip tracing
25 work, that is my forte.

ONLY COPY AVAILABLE

1 2 I locate the skips and collect them.

3 4 Q Most of your work is over the phone; is it
not?

5 6 A All my work is over the phone.

6 7 Q Now, when you're talking about this business,
you have certain terminology in the business that you
8 have been using for the past 20 years or so in conducting
9 your debt collection business?

10 A That's right.

11 Q Now, can you give us a definition of what
12 skip tracing is?

13 A Skip tracing is when people are no longer residing
14 at their home or work or their job, you have to determine
15 where they're living.

16 Q Do you have to contact telephone companies
17 and relatives and other sources of information as to
18 achieve the new address or whereabouts of the person?

19 A Well, there are ways. There are a lot of different
20 ways of locating a skip. I couldn't go into it. It
21 would take me hours.

22 Q Now, my question is: Do you sometimes call
23 or phone the person's company?

24 A No, I don't call the company to locate a skip.

25 Q How do you do it?

1 ONLY COPY AVAILABLE

2 A Just briefly, it's pretty difficult. I have the
3 skip card in front of me. It's hard to explain it to you.
4 If you give me a precise account or give me a precise
5 skip account, I would just look at it and I would know
6 where to start.

7 Q Now, at some point in time, did you become
8 familiar with the gambling junket accounts?

9 A Yes.

10 Q When was that?

11 A When I worked for Frank Provezano.

12 Q Now, was that the first time you ever dealt
13 with such accounts?

14 A That's right.

15 Q Now, were you given instructions on how
16 to handle such accounts?

17 A (No response.)

18 Q Did anyone give you any instructions?

19 A Yes, my first instruction was to use the tape
20 recording machine. He said to tape everything. Everything
21 you do as far as collection is concerned.

22 Q Did you find that Mr. Provezano had a great
23 deal of experience in the collection business?

24 A That's a broad question. I don't know exactly what
25 you mean.

ONLY COPY AVAILABLE

1 Q Well, did he have as much experience as you?

2 A Well, Mr. Provezano hired me to set up an office
3 for him in the collection field. He wasn't experienced
4 in that. I just knew Mr. Provezano for a short period of
5 time. I don't know how much experience he had in the field.

6 Q Now, you say you were instructed as to tape
7 recording conversations?

8 A Right.

9 Q Were these just gambling accounts?

10 A I had only three or four gambling accounts for
11 Mr. Provezano.

12 Q Did you tape all your conversations?

13 A No.

14 Q Why not?

15 A Because I found it annoying to have to tape on my
16 ear and I felt uneasy.

17 Q Did you tape record any of your conversations?

18 A About these accounts, there were. There were a
19 couple of conversations that were taped. I don't think
20 I was talking directly to the party involved. I don't
21 recall. I know that Mr. Provezano asked me to use the
22 tape recorder several times.

23 Q Now, what did you do with the tape, if
24 anything?

ONLY COPY AVAILABLE Jacobs

Jacobs

14

2 A The tape belonged to Mr. Provezano.

Q Did you give him the tapes of the conversations?

4 A He took the tapes.

Now, you say that there were 4 tapes?

6 A I didn't say 4 tapes. I said that they were
7 originally for the 3 or 4 markers I worked for Mr. Provezano.

Were you successful in any of these accounts?

9 A I was out one day and Mr. Provezano told me that
10 somebody was coming up that particular day to pay off one
11 of the markers. I believe he had gotten a check for it.

Q Do you remember the name of the individual?

13 A No, I do not.

14 Q Did you ever use your name Jacobs, when
15 calling on these gambling accounts?

At times, I did.

Q You used the name Mrs. Kramer?

18 A Yes, I did.

19 Q Did you use any other names other than Mrs.
20 Kramer?

A I don't recall.

22 Q Now, does the name Dave or Jeff Woods
23 mean anything to you?

2. A Yes.

Q In what connection?

ONLY COPY AVAILABLE

1 A Dave and Jeff Woods, they're representatives of
2 Circus Circus up here in New York.

3 Q Have you ever met them personally?

4 A No, I have not.

5 Q Have you ever talked to them on the phone?

6 A Maybe once or twice. I don't know when it was.

7 Q Now, in what connection did you have a
8 conversation with them over the phone?

9 A Mr. Provezano would ask me to call Mr. Woods
10 regarding an account that we were trying to collect for
11 him. I don't recall the conversation now.

12 Q Do you remember that account?

13 A Yes.

14 Q What is the name of that individual?

15 A Stonesiefer.

16 Q Did you ever have a conversation with Dave
17 Woods or Jeff Woods?

18 A I don't think it was the son. I don't recall who
19 it was, whether it was the son or the father. If I have
20 spoken to them twice, it's a lot.

21 Q Now, Jeff Woods was the son and Dave Woods
22 was the father? You had a conversation with Dave Woods?

23 A I think so.

24 Q Now, was it about the Stonesiefer account?

1 ONLY COPY AVAILABLE

2 A I don't recall. It might have been about that
3 account or Mr. Provezano asked me to call. He asked me
4 to talk to him about the account or something. I don't
5 recall.

6 Q You were not in the habit as acting as
7 a secretary for Mr. Provezano, were you; taking and
8 making calls for him?

9 A Yes, if Mr. Provezano wanted help and he wanted me
10 to call someone to get someone for him on the telephone,
11 we shared the same office, I would.

12 Q Did this happen quite often during the
13 time that you were there?

14 A He would come in and leave at various times during
15 the day.

16 Q Did he have any other job?

17 A He told me he had a job on weekends as a bartender.
18 I don't recall the name of the place.

19 Q Do you recall having any conversation with
20 Dave Woods?

21 A I don't recall because I know it wasn't a very
22 important conversation, otherwise, I would remember.

23 Q Did you have anything to do with referring
24 over any of the gambling accounts?

25 A You'll have to be more specific on that question.

ONLY COPY AVAILABLE

1 Q Did you have anything to do with referring
2 over of the Stonesiefer account?

4 A It was given to Mr. Provezano to collect from
5 David Woods.

6 Q Do you have any information as to whether
7 Mr. Woods ran junkets to any other places besides Circus
8 Circus Hotel in Las Vegas?

9 A No, I have no idea.

10 Q Now, did you ever receive any information
11 that he ran junkets to Puerto Rico?

12 A I have no idea.

13 Q Did you know that gambling debts were not
14 legal, that they were not legally endorsable?

15 A Yes. There is no legal endorsing of them in the
16 United States.

17 Q Did you, at the time you started working on
18 these gambling debts, these debt accounts, for Mr.
19 Provezano, know that?

20 A I thought that a check would be legal, endorsable
21 here. That was my impression by Mr. Provezano. I never
22 discussed it with him.

23 Q Did you ever see a gambling marker?

24 A Yes, quite a few.

25 Q Did Mr. Provezano have some in his office?

1
2 A I don't recall now if Mr. Provezano had the
3 originals of the 3 or 4 accounts that were handled and
4 photostated. I don't recall.

5 Q Now, have you ever seen either copies or
6 originals of the markers?

7 A Yes.

8 Q Now, was it your impression that such a
9 document could be legally enforceable in a Court of Law?

10 A I knew that markers were not legally enforceable.
11 It was my own determination. I thought that checks were.

12 Q Did you ever receive any checks?

13 A No, not from Mr. Provezano. But from Mr. Cox
14 I have seen checks.

15 Q That is gambling checks that junket customers
16 have written?

17 A Yes, they're checks instead of markers. That is
18 correct.

19 Q Let me ask you this: Could you tell me
20 some of the techniques you used on the phone with regard
21 to the checks, of bad debts, you have used in the business
22 in the 20 years. Can you give me and the ladies and
23 gentlemen of the Grand Jury some idea of how you approached
24 that, what you would use to approach someone that had not
25 paid a debt, just generally, what language would you use?

ONLY COPY AVAILABLE

1
2 A Well, I contact the party on the telephone,
3 introduce myself and say who I represent. I would tell
4 them that theirs is an honorable debt that is owed to the
5 casino. Don't you think it's time you should pay it.
6 I would say that 80 per cent of these people that I called,
7 when working on these marker accounts --

8 Q Yes.

9 A (continuing) I would appeal to their sense of
10 fair play and I would say that these were honest debts
11 and I would tell the people, I would tell them that it
12 has been several years and they should pay their debts,
13 their obligations.

14 Q Suppose it was an ordinary debt and it
15 was referred from some place, some store had reneged on
16 payment and somehow the debt was referred to Mr. Provezano
17 or Mr. Cox, and then Mr. Provezano or Mr. Cox turned the
18 collection over to you; what would be your approach to
19 someone in that case, than for a gambling debt?

20 A There is no other approach.

21 Q You would never use any threats on these
22 people?

23 A You'll have to be more specific on that. I may have
24 gotten excited a few times, but I have never threatened
25 anyone. I might have gotten excited at some people quite

1 a few times.

2 *ONLY COPY* *AVAIL*
3 Q Have you ever said, we are going to take you
4 to Court?

5 A What are you making reference to?

6 Q I'm talking about the whole gambling bit,
7 the debt collection that you were engaged in over the
8 years. If I was trying to collect on something that some-
9 body owed me, let's say on a refrigerator or a retail
10 installment paper, as you would put it, on an installment
11 loan I would call them up and ask them for the money and
12 try to make some terms, like split it over a period, a
13 short period of time and if they would just absolutely
14 refuse to pay, I would just tell them, if you don't pay,
15 you leave me no choice but to go ahead and take out a
16 Summons and referring this to the legal department where I
17 am working and they would serve you with a Summons. Did
18 you ever do that with the gambling check accounts, when
19 you were working for Mr. Provezano or working for Mr. Cox?

20 A There were 3 or 4 accounts I spoke to. One of the
21 parties actually came up to the office when I wasn't there.

22 Q Let me focus on one point. Now, Mr. Jacobs,
23 you would not use the technique of threatening legal
24 action because you know it wouldn't be enforceable?

25 A I want you to understand I didn't find out about

ONLY COPY AVAILABLE

1 that until much later.

2 Q Well, you know about that now?

3 A Yes.

4 Q Did you ever tell people on the phone that
5 you are going to send collectors out to see them about the
6 collection of the accounts?

7 A Yes, I think I would have told people that.

8 Q Now, did you follow through and do it?

9 A That's where I would refer it to Mr. Cox. I would
10 bring it up to him and see what he wanted to do with it.

11 Q Do you know whether he or Mr. Provezano that
12 is, send two guys or one guy to see the person or individual
13 to try to get the collection in person?

14 A To my knowledge, I don't know if Mr. Cox ever did.
15 I don't know if there was anybody employed by the company
16 that he would send out that way.

17 Q So, it was an idle threat? So, when you
18 said somebody would come over and see you, you were trying
19 to say --

20 A Many people would go out on the cold cases to pick
21 up money.

22 Q Now, did you ever make any threats that
23 you're going to call their relatives, like their wife,
24 their mother, or their brother or anyone else in their

1
2 family with regard to the debt?

3 A I don't recall. I don't recall if I would say
4 something like that.

5 Q You don't recall?

6 A No, I don't recall.

7 Q Have you ever said that someone was going
8 to get hurt?

9 A Never.

10 Q Never?

11 A Yes, never.

12 Q Now, did Mr. Provezano ever tell you specific-
13 cally not use any kind of threats?

14 A Yes.

15 Q When was that?

16 A Well, it was a short period of time that I was
17 working for him. He said, "Don't threaten anyone on the
18 telephone." That was the only conversation we had.

19 Q Now, was that in the beginning of your
20 association with him or towards the end?

21 A Near the end of it. In the beginning, we didn't
22 have the Vegas accounts. It was towards the end that
23 he may have brought in 3 or 4 Vegas accounts.

24 Q Now, was there an account with the Meadowbrook
25 Hospital that you worked on with Mr. Provezano?

ONLY COPY AVAILABLE

2 A Yes.

3 Q Could you tell us about that?

4 A That is one of the reasons why I was hired by
5 Mr. Provezano. At the time of the interview, he told me
6 that he expected this very large account from a hospital.
7 I didn't know the name of the hospital at that time.

8 It was towards the very last, I would say, 3 or 4
9 weeks that I was working for Mr. Provezano that the hospital
10 accounts came in.

11 Q And, wasn't there an argument or disagreement
12 with Mr. Provezano over handling of the accounts?

13 A No.

14 Q Did you handle the hospital accounts?

15 A Yes.

16 Q Successfully?

17 A Yes.

18 Q And now, were these large or small accounts
19 basically?

20 A Basically?

21 Q Yes.

22 A Very small.

23 Q Now, didn't you say to him they were not
24 worth your time, it was not worth your time in engaging
25 in the tracing of such small balances or accounts?

1
2 A I did not say that. I told him frankly these \$10.00,
3 \$12.00 balances, I would hire somebody else to do this
4 work. I felt, for a long time, that my forte was -- I
5 liked to work large balances and home improvement paper.
6 Any collector can work on accounts for \$25.00 and \$15.00.
7 It wasn't an argument.

8 Q Was it a disagreement, would you say?

9 A It was just a discussion.

10 Q At some point in time, did a discussion
11 occur of some accounts at various Times Square Stores?

12 A I don't exactly understand what you mean by that.
13 Times Square didn't have their own collection department.
14 It was not worth their while to go out and make an effort
15 to collect from these accounts.

16 Q Do you remember discussing the Times Square
17 Store accounts with Mr. Provezano?

18 A When I started working for Mr. Provezano, all he
19 had in his office was maybe 30, maybe 20 Times Square Store
20 accounts.

21 Q Now, basically, what were they?

22 A They were all bad checks from Times Square.

23 Q Now, they were various business checks
24 from Times Square?

25 A No, they weren't business. They were just people

ONLY COPY AVAILABLE

1 purchasing items and writing bad checks. They may have
2 said to Mr. Provezano, I don't know how they can afford
3 business just with the Times Square Store accounts. They
4 don't have enough work to make sufficient money on it.

5
6 There were only 20 or 30 accounts and when they sent in
7 accounts, they may have sent in another 10 or 12.

8 Q Now, what did he say, if anything?

9 A Don't worry about it.

10 Q Did he instruct you to go ahead and work
11 on these accounts?

12 A Yes.

13 Q Now, at any point in time, did you ever see
14 Mr. Provezano with a gun?

15 A Mr. Provezano was licensed to carry a gun.

16 Q Would you describe the gun? Was it a hand
17 gun or a rifle, can you give some general description to
18 the Grand Jurors?

19 A I don't know that much about guns. It wasn't a
20 rifle. He carried it in his belt.

21 Q Did he ever draw it out of the holster?

22 A Yes. He had a picture of Frank Sinatra in his room
23 and he would take the gun in his hand and I thought maybe
24 he was imitating Frank Sinatra.

25 Q Did he ever say anything to you about the

1
2 use of the gun?

3 A No, nothing other than he had a permit and he showed
4 it to me.

5 Q He showed the permit to you?

6 A Just the picture he was showing me.

7 Q Were you afraid of the gun or Mr. Provezano?

8 A Well, I'm afraid of anyone who carries a gun that
9 has bullets. Yes. I would be petrified.

10 Q Did he ever point the gun at you?

11 A No.

12 Q At any time, in your presence, did he point
13 the gun at you?

14 A No.

15 Q Did he ever use the name Frank Pro?

16 A Yes.

17 Q Now, would he use that name when he was
18 talking to people over the phone?

19 A Yes.

20 Q Do you know of anyone named Anthony or
21 Tony Pro?

22 A No.

23 Q Do you have any idea if Mr. Provezano was
24 claiming or giving you the impression that he had connections
25 with any criminal elements --

1
2 A You would have to be more specific on that.

3 Q The Mafia?

4 A I don't know that there was a Mafia.

5 Q Well, is he connected --

6 A I'm under the impression that Mr. Provezano, that
7 he was a nephew of somebody.

8 Q Did he tell you that?

9 A Indirectly.

10 Q Can you recall the exact words he used?

11 A No, I cannot.

12 Q Now, of these 3 or 4 gambling junket accounts,
13 that you were handling for Mr. Provezano, how many individual
14 telephone calls would you say you made on the Stonesiefer
15 account?

16 A On the Stonesiefer account, I may have made 20,
17 30, 40 calls.

18 Q To whom and what people?

19 A I don't recall at the present. Harry Stonesiefer
20 was a skip. He originated out here in Long Island and
21 he left his job in a laboratory. I would just keep on
22 working and working until I could try to locate Harry
23 Stonesiefer.

24 Q Now, did you call William or Bill Stonesiefer?

25 A I don't recall the first name.

1
2 Q Bill is the brother of Harry?

3 A Yes, I did.

4 Q How many times did you call him?

5 A Several times.

6 Q Did you call his ex-wife named Pamela
7 Stonesiefer?

8 A I believe I spoke to her. I don't recall.

9 Q Now, did you call his cousin that may have
10 been located in North Carolina or South Carolina?

11 A Yes.

12 Q Did you call his mother that may have been
13 located in Gettysburg, Pennsylvania?

14 A Yes. I did.

15 Q How many times did you call her?

16 A It may have been two or three times.

17 Q Did you talk to Harry Stonesiefer himself?

18 A No, I never did.

19 Q You never did?

20 A Never did.

21 Q And now, do you recall the name Mr. Coper?

22 A Yes, I do.

23 Q In what connection?

24 A I located a job where Harry Stonesiefer supposed
25 to be working and Mr. Coper is who I spoke to.

ONLY COPY AVAILABLE

1 Q Now, was there a laboratory?

2 A Yes.

3 Q Where was that?

4 A In New York, I don't remember where.

5 Q How many calls would you say you made on
6 the three gambling junket accounts?

7 A I'm not sure. I would say about 3 or 4, at the
8 most.

9 Q Do you know Frank Atempa?

10 A Yes.

11 Q Did you make any calls to him?

12 A The name sounds familiar. I don't recall. The
13 name sounds very familiar on the collection accounts.

14 Q I have a list of various gambling junket
15 accounts that I would like you to look through briefly.
16 Just look at the names, let the record show that this
17 is a various list that was previously marked as Grand
18 Jury Exhibit #12 on May 6, 1974.

19 Mr. Jacobs, I would like you to use this
20 list that has been previously marked as Grand Jury Exhibit
21 #12, and give me any of the names that strike you as being
22 familiar, that has a familiar ring to you?

23 A Robert Brendel, sounds vaguely familiar to me. I
24 want you to keep in mind I'm not going to say I don't recall.

1
2 I worked some of these accounts. I only worked for 2 or
3 or 4 weeks at the most for Mr. Provezano and these
4 names would be very hard for me -- there is John Cecere.
5 I had spoken to him on the telephone when I worked for
6 Mr. Provezano. He had agreed to pay \$1,500.00 and coinci-
7 dently, he came up the day I was out. I was supposed
8 to get a minor operation done. I remember I was out of
9 the office and he was supposed to come up that morning.
10 Mr. Cecere was coming up to pay on the markers and I
11 know that Frank was a little nervous. When I had gotten
12 back there, Mr. Provezano told me that Mr. Cecere was up
13 and he gave him \$1,500.00.

14 Q Now, you never saw the transaction yourself?

15 A No, I couldn't. That's one of the days I was out.
16 Here is Harry Stonesiefer.

17 Q Do you recognize any other names on the list?

18 A Yes, Dick Durso, it sounds familiar. That may have
19 been one of Mr. Cox's accounts.

20 Q I have another list, Mrs. Jacobs, that has
21 been previously marked as Grand Jury Exhibit #21 on
22 May 6, 1974, these have to do with the gambling check
23 accounts from Prompt Reports.

24 I wonder if you would look at these pages
25 and the names on the list and tell me what names are

2 || familiar to you?

3 A You handed me a list that came from Mr. Cox. I'm
4 not quite familiar with it. I can't say that I ever heard
5 of anyone of these accounts. I'm not quite familiar with
6 the list. I wouldn't say that I had spoken to anyone of
7 these. I don't recall, there are too many.

8 Q Did you help in the preparation of these
9 lists?

10 A I had got all the listings together and I had
11 given them to the girl to type. I didn't do the typing.
12 I got it together and gave it to the girl to type out.

Q Were you employed by Mr. Cox at that time?

14 A Yes, I was.

15 That would be the beginning of May of this
16 year?

17 A Yes. I want you to know that I left Mr. Cox and
18 he called me to come back.

19 Q Did you discuss with Mr. Cox after his appearance
20 before this Grand Jury?

21 A I was quite anxious to find out how he made out.
22 I asked him, "How did things go?" He said, "Fine and
23 no problem. We are clean. They know we are clean. I didn't
24 do anything unethical in that office."

Q Did you aid in the preparation of any other

1
2 document that may have been subpoenaed by the Grand Jury
3 other than this list?

4 A You'll have to be more specific.

5 Q Were there any other documents, did you
6 see any subpoenaed documents or did you assist in completing
7 this Grand Jury Exhibit, assisting Mr. Cox in making up
8 this list --

9 A You're confusing now. I'm saying things I don't
10 know. I aided Mr. Cox in making up the list that he
11 needed. I aided in making the list and we worked together
12 and the girl typed it out.

13 Q To the best of your recollection, did you
14 make phone calls to the bulk of the people on these lists?

15 A Not on the bulk. On some of them. I wasn't the
16 only person in the office.

17 Q Now, I want you to have a look at this
18 Grand Jury Exhibit at this time. Just look at the names
19 on the list and tell me which of these names you recognize
20 or you participated in telephone calls with. We'll give
21 the name to the reporter and spell the last name.

22 A This is very difficult.

23 Q Just do your best.

24 A Do my best? Right now, I'm quite nervous and a
25 little warm. It's very hard to pinpoint the names.

2 Irwin Milstein, Morton Feldman, Marvin Bernstein.

3 I may have spoken to a few others and I'm trying to
4 remember them.

5 Q I want you to give me the names of the
6 parties you have spoken to --

7 A I have spoken to quite a few. There's Cross, I
8 know I had spoken to him once. Bernard Dacker. Sheldon
9 Greenberg. I have spoken to Anthony Riccardi. I spoke
10 to his wife, I never spoke to Anthony Riccardi. I spoke
11 to Klotz, Chandler is his first name. Chandler Klotz.
12 Louis Cohen. Frank Timpa.

Q How many times did you speak to Mr. Timpa?

14 A You're being very difficult.

15 More than once?

16 A Yes. Mr. Timpa was supposed to take care of the
17 collections. I spoke to him twice. I would have spoken
18 to quite a few of these people at one time or another.

19 Q Will you continue. You're doing very well.

20 A Dave Brill --

21 Q Give us the names you recall --

22 A Irving Schapiro. I remember trying to sue him.

23 Q You tried suing him?

24 A. Yes.

25 Q Was that for a gambling debt?

1
2 A I think it was for a check. There's Quinn.

3 Q Is that Quinn Alonzo?

4 A He goes under both names. There is Joe Rotterman.

5 Now, I'm just giving you the names that I remember
6 speaking to. I may have spoken to other people. I'm
7 just giving you the names I recall offhand. Sam Pitofsky.
8 There is Marilyn Shih-shih. There is also Les Hanzev.

9 Q Let's go back to Marilyn Shih-shih, there
10 is the amount of \$25,000.00, do you recall that?

11 A Quite well.

12 Q That's the type of accounts you like to
13 handle --

14 A You're putting words in my mouth. You're letting
15 the Jury believe things. The \$25,000.00 is a gambling
16 debt.

17 Q Now, how many calls did you make on this
18 account?

19 A I have spoken to her. She lives in a penthouse
20 here in New York and I have spoken to her several times.

21 Q What did she say in response to your call?

22 A I called her about the debt and the money she owes
23 and she was very disturbed that anybody would call her
24 asking her for money and she gave me the impression as to
25 who was I, an agency, to ask her to pay the hotel. She

ONLY COPY - AVAILABLE

1 said when she's ready, she will pay. I told her that
2 the \$25,000.00 was an honorable gambling debt. She owes
3 all the hotels. Beside that, this woman lives in a
4 penthouse in New York. She says she'll pay when she's
5 ready and not to disturb me.

6 Q What does she do for a living?

7 A I don't think she does anything for a living. She
8 is quite wealthy and she owns a penthouse on Fifth Avenue.
9 Where she gets her money, I don't know.

10 Q Did you talk to anybody else with regard to
11 her debt or just her; any relatives?

12 A No, unless I would go into China.

13 Q Let's get back to the rest of the list.
14 Do you see any other account?

15 A Yes. Les Hanzey -- that sounds familiar.

16 Q Now, Carey (phonetic) -- the Carey account
17 says paid \$800.00 of his \$1,800.00 debt; do you recall
18 anything about it?

19 A The hotel agreed to settle it for \$800.00. \$800.00
20 out of the \$1,800.00, the amount the account owed the
21 Desert Inn was \$1,800.00. We collected \$1,000.00 and
22 settled the debt. We put down a balance due the hotel
23 and the hotel agreed to settle for \$1,000.00.

24 Q With regard to Les Hanzey, \$6,000.00 debt,

1
2 \$3,000.00 was collected; was that the amount of the settle-
3 ment?

4 A No, \$3,000.00 is still owed on that account.

5 Q Do you have anything to do with the
6 collection of the \$3,000.00 of the \$6,000.00 owed?

7 A I located Les Hanzey in Texas.

8 Q Did you get a commission?

9 A No, I did not. When I located him, Mr. Cox spoke
10 to him. When I located his business in Texas, Mr. Cox
11 spoke to him and collected the money.

12 Q Did I ask you if you worked on a commission
13 basis?

14 A I did not.

15 Q You worked on a straight salary?

16 A I was hired as an independent worker. I would
17 come in and vary my hours. I would come in when I felt
18 like. Mr. Cox would be liberal. If I worked an hour --
19 for example, Les Hanzey, originated in Texas and I never
20 spoke to Mr. Cox. Mr. Cox collected the money.

21 Q Do you have any idea if Mr. Cox used a
22 tape recorder to tape record conversations?

23 A No, I did not. I saw Mr. Cox with a tape recorder
24 come into the office all the time. I have known him to
25 use it, but I don't know what for.

1 Q Have you been in there on occasions --

2 A He never kept a tape recorder apparatus. He never
3 kept a tape recorder in his office and I saw him using
4 a tape recorder once in all the time I had known him.

5 Q Did he ever discuss with you taping telephone
6 conversations?

7 A No.

8 Q He never discussed it with you?

9 A No.

10 Q Now, the F.B.I. interviewed you on September
11 13, 1973, and you said during that conversation that
12 Mr. Provezano told you "You threaten me, kid, and you
13 won't walk the street", do you recall conveying that
14 information about Mr. Provezano to an F.B.I. agent?

15 A Yes, I do.

16 Q Could you tell the Grand Jurors how that
17 threat came about against you from Mr. Provezano?

18 A To be very honest with you, I'm not a personal
19 friend of Frank Provezano. I'm not looking to excuse it.
20 I'm just saying that I'm a mature woman and truthfully,
21 I don't think that Mr. Provezano meant it. He did say
22 it. When people get into a fit of anger, they will say
23 things that they don't mean.

24 Q But he said it?

1
2 A I believe it was in a fit of anger. When you get
3 anybody mad, they say lots of things that they don't mean.

4 Q Mr. Provezano appeared before this Grand
5 Jury and I believe Mr. Herbert Croll, who is an attorney
6 at law, that Mr. Croll called you on the telephone; is
7 that true?

8 A Mr. Croll did not call.

9 Q Mr. Croll never called you?

10 A Well, I remember speaking with Mr. Croll.

11 Q Can you tell the Grand Jury what transpired?

12 A Mr. Croll called me and told me -- he introduced
13 himself as Mr. Provezano's attorney. He told me that his
14 client had a subpoena from the Grand Jury and if I could
15 come down to his office to see him.

16 Q And, what did you say?

17 A I told him I would definitely not come down to his
18 office to see him. Even if his client received a subpoena.
19 What did I have to do with his client? What is it all
20 about.

21 Q Now, was there a further discussion with
22 you on the telephone with regard to the conversation with
23 Mr. Croll?

24 A Well, I was getting a little excited. I thought
25 it was a little unusual to tell me to come down to his

ONLY COPY AVAILABLE

1 office and so forth.

2 Q Now, what else transpired?

3 A That's all. I asked him to call Frank Provezano.

4 Nothing else transpired. Maybe a few more words. Minor
5 words. Nothing else.

6 Q Now, sometime during your work on the
7 Stonesiefer account, did you find out that Harry Stonesiefer
8 was alleged to have leukemia?

9 A No.

10 Q You never did?

11 A No.

12 Q Did you ever discuss with Harry's brother
13 who we know as William or Bill Stonesiefer, the fact
14 that his brother was dying?

15 A Never. The first time I know of it is now.

16 Q I'm going to read some direct quotes to
17 you, Mrs. Jacobs, and I want to know whether or not you
18 said them?

19 "MRS. KRAMER: Well, you know what's
20 going to happen to him one of these days.

21 BILL: Well, he's going to die and
22 now that's besides the point.

23 MRS. KRAMER: Sooner than he expects.

24 BILL: No, I don't.

1

2 MRS. KRAMER: Sooner than he expects.

3

4 Maybe it's going to be painful to be honest
5 with you."

6

A I never said that.

7

Q Are you absolutely positive that you never
8 said that?

9

A Absolutely positive.

10

Q Now, you're under oath --

11

A I never said that.

12

Q You never said to anyone these words, "Maybe
it's going to be painful, to be honest with you."

13

A I never said it. I know I'm under oath.

14

Q Now, did you know the statute of perjury?

15

A Yes. I never said that.

16

Q We'll continue.

17

"BILL: Well, you know it's got nothing
18 to do with me.

19

MRS. KRAMER: I mean it's really a
shame, but he's gonna get his pretty soon,
just a matter of hours to be honest with you
and as I told you, I'm being honest with you.
We didn't like going to... the mother, but
we will.

20

BILL: Well, you know."

21

22

23

24

25

2 Q (continuing) Do you recognize those words?

3 A Not exactly.

4 Q You had some sort of conversation?

5 A By the way of saying I wish you could contact your
6 brother.

7 Q Did you say, "What he's going to get his
8 pretty soon"?

9 A I did not.

10 Q You absolutely deny that statement?

11 A Yes. I deny it.

12 Q I'm going to continue.

13 "MRS. KRAMER: In effect, somebody
14 will probably take a ride up sometime this
15 afternoon.

16 BILL STONESIEFER: Well, what can
17 I tell you?

18 MRS. KRAMER: What can I tell you?

19 BILL: Yep.

20 MRS. KRAMER: I'm being honest with
21 you.

22 BILL: I thank you."

23 Q (continuing) Do you recall saying to Mr.
24 Stonesiefer that somebody may take a ride up?

25 A I think there may have been two guys that went up

1
2 to collect. Mr. Provezano had these two guys, I don't
3 know their names.

4 Q Do you have any idea if that was Jeff Woods,
5 whether he made any effort to collect on the Stonesiefer
6 account?

7 A I would assume so. They were representatives
8 of a hotel that handled junkets here in New York. They
9 gave out Markers and it was up to them to collect.

10 Q Did they try to collect from the Stonesiefer
11 account?

12 A Yes.

13 Q Now, do you have any information that they
14 made a personal visit?

15 A None whatsoever.

16 Q Or that they threatened to break heads?

17 A I wouldn't know.

18 Q Do you have any information either from
19 Mr. Provezano or from Mr. Woods himself?

20 A I never had.

21 Q Are you saying, "No"?

22 A The answer is no.

23 Q How much did you earn in 1973?

24 A I don't recall.

25 Q Did you file Federal Income Tax Return for

1973?

ONLY COPY AVAILABLE

A I don't know. My husband and I, we file a joint account. I don't take care of it.

Q Well, you sign a joint return, didn't you?

A Well, unless we didn't file a joint return.

Q What was your total income?

A I don't recall.

Q Can you give us an approximate figure?

A I don't recall.

Q Do you recall how much you earned in 1973?

A I don't recall. If you would like me to, when I go home, I can look up the W-2 form.

Q Did you receive a W-2 from Mr. Provezano?

A Yes.

Q Also from Mr. Cox?

A No, I didn't receive one from Mr. Cox.

Q How much money did you earn from Mr. Cox, the year 1973?

A I was with him a very short time, as I told you. I was employed as an independent worker, not on salary.

Q Okay. Are there any questions from the Grand Jurors?

JUROR: Mrs. Jacobs, I'm curious as to one thing. For the number of different

1
2 corporations, businesses; why did you go
3 under so many different names?

4 THE WITNESS: Well, let me put it
5 to you this way: When I work for companies,
6 I use my right name. At other times, when
7 I work on agency accounts, marker accounts,
8 I use the other name. I tell people because
9 people threaten your life, so you don't want
10 to use your own name.

11 JUROR: If they really want to find out
12 who you are, they probably would with no
13 problem.

14 THE WITNESS: You're probably right.

15 JUROR: If you don't want to give
16 your right name, let them call you at the
17 business.

18 EXAMINATION BY

19 MR. WEINER:

20 Q Can you tell us what names you heard Mr.
21 Provezano use on his telephone calls?

22 A He used the name Hunter. It may have been James
23 Hunter. Maybe James. I don't recall the last name.

24 Q Do you recall the name Mr. Marta?

25 A The name has been mentioned several times. It has

1 2 been mentioned several times by some other people.

3 Q Do you recall that name?

4 A I don't know. I think it was a fellow who worked
5 for Mr. Provezano at one time.

6 Q Do you recall the name Carey Eferstein?

7 A The name was mentioned when I was questioned by
8 the F.B.I. They mentioned the name and they asked me
9 whether I heard of the name. I never heard of it.

10 Q Was Mr. Eferstein's name brought up by
11 Mr. Marta?

12 A Right. He brought up the name and that's when
13 I heard it.

14 Q Mr. Provezano never mentioned that name
15 to you?

16 A No.

17 Q How about anybody else?

18 A No.

19 Q Now, Mrs. Jacobs, I would like to keep you
20 under the subpoena of the Grand Jury. I don't think it
21 will be necessary to call you back, but if it is, we'll
22 notify you.

23 A Okay.

24 THE FOREMAN: You're still under the
25 subpoena of the Grand Jury. If there are

1

2 no further questions, you're excused at
3 this time. Thank you for coming.

4

(Whereupon, the witness was excused
5 and withdrew.)

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

APPENDIX E

1 UNITED STATES DISTRICT COURT

2 EASTERN DISTRICT OF NEW YORK

3 -----X
4 UNITED STATES OF AMERICA

5 -against-
6 ESTELLE JACOBS, et al

ONLY COPY AVAILABLE

7 -----X
8
9 Criminal Folder
10 #
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

225 Cadman Plaza East
Brooklyn, New York

November 4, 1974

GRAND JURY MINUTES

Presented by:

EDWARD C. WEINER, ESQ.,
Special Attorney
Department of Justice

Reported by:

Elizabeth A. Ng

Witness:

ESTELLE JACOBS

ONLY COPY AVAILABLE

2

1
2 E S T E L L E J A C O B S , having first been duly
3 sworn, assumed her seat as a witness and testified
4 as follows:

5 EXAMINATION BY

6 MR. WEINER:

7 Q Would you state your name for the record,
8 please.

9 A Estelle Jacobs.

10 Q Mrs. Jacobs, do you have a middle name?

11 A No.

12 Q I believe you appeared before this Grand
13 Jury on June 10, 1974, is that correct?

14 A That's correct.

15 Q At that time, Mrs. Jacobs, I explained to
16 you your various Constitutional rights.

17 Do you have any questions now about those
18 rights?

19 A No.

20 Q Let me briefly go over them. The first
21 right you have is the privilege against self-incrimination
22 to refuse to answer any question that might tend to
23 incriminate you.

24 Do you understand that right?

25 A Not fully.

1
2 Q Let me explain it to you. You have the
3 right to refuse to answer any question that might tend
4 to lead or tend to give incriminating information against
5 you. It's a personal right that applies only to the
6 person who's testifying. It doesn't apply to incriminating
7 information against any other individual who we might
8 ask you about.

9 If there's any question that you feel might
10 offer information or evidence that might be contrary to
11 your position, you tell us and you won't be forced into
12 answering that question.

13 Do you have any questions about your
14 privilege against self-incrimination?

15 A No.

16 Q The second right you have is the right to
17 counsel. The right to have an attorney represent you
18 outside the Grand Jury room.

19 Do you have an attorney representing you
20 today?

21 A No.

22 Q Do you feel the need of one?

23 A No.

24 Q If at any time you would like to interrupt
25 the proceedings and call an attorney, let us know and you

7

2 will be given the opportunity.

3 A There is one question as to Mr. Weiner --

4 Q Yes.

5 A I'm here and you are asking me if I feel -- I don't
6 know why I'm here, Mr. Weiner, to be very honest with you.
7 You are implying do I feel, do I need an attorney. I
8 have asked you repeatedly why am I here.

9 Q You are a subject of this investigation,
10 Mrs. Jacobs.

11 A I told you everything I know, Mr. Weiner.

12 Q I have some additional questions and that's
13 why you're here today.

14 Will you tell us if you would like to call
15 an attorney and at that time you will be permitted to do
16 so, if you would like.

17 Do you understand that?

18 A Yes, I do.

19 Q Finally, I want to tell you that there are
20 Federal laws against perjury, for telling untruths while
21 under oath.

22 Do you understand those laws?

23 A Yes, I do.

24 Q Do you understand that you are under oath
25 at this time?

1 A Yes, I do. Do you mind if I smoke, Mr. Weiner?

2 Q You may.

3 Mrs. Jacobs, I have your date of birth but
4 not your place of birth the last time.

5 Could you give us that?

6 A Brooklyn, New York.

7 Q And are you presently employed?

8 A Yes.

9 Q Could you tell us your place of employment?

10 A I work for an attorney in Garden City, Fleck, Fleck
11 and Fleck.

12 Q Give us the spelling of one of the Flecks.

13 A F-L-E-C-K.

14 Q What duties do you have with Fleck, Fleck
15 and Fleck?

16 A The duties I have with Fleck, Fleck and Fleck, I
17 was hired to work on collections.

18 Q Do you do all the work over the phone?

19 A Yes, I do.

20 Q Are they basically accounts of the law firm
21 or are they other accounts?

22 A Other accounts.

23 Q Could you give us an idea of what types of
24 accounts they are?

1
2 A Fleck and Fleck was never in the collection business
3 before. I'm only working for them several months. They
4 just obtained A&S accounts. They just went in the
5 collection business. They just went into the collection
6 business and I work on A&S accounts, Abraham & Straus.

7 Q That's a retail clothing store?

8 A Department store, right.

9 Q Department store?

10 A Yes.

11 Q And you have worked for them for several
12 months?

13 A That's correct.

14 Q What are your earnings at Fleck and Fleck?

15 A My earnings in Fleck and Fleck, \$175.00. Well,
16 actually \$150.00 with a commitment of \$175.00 at the
17 end of this week.

18 Q Do you get commissions as well?

19 A No, I do not.

20 Q Prior to your employment there, where did
21 you work?

22 A I worked for Walter Cox, Prompt Reports.

23 Q How long did you work there?

24 A I worked for him part time off and on for a few
25 months.

1
2 Q I don't think I asked you the last time
3 what your earnings were at Prompt Reports or what arrange-
4 ments there were.

5 A Arrangements, I'm not going to answer that question.

6 Q Why is that? You are asserting your
7 privilege against self-incrimination?

8 A That's correct.

9 Q You want to tell us your earnings at
10 Prompt Reports?

11 A No, I don't.

12 Q Same reason?

13 A Same reason.

14 Q Have you talked to Mr. Cox recently?

15 A Yes.

16 Q When?

17 A I don't remember the date, I talked to him off
18 and on.

19 Q After you were notified to appear here for
20 this session of the Grand Jury?

21 A After I spoke to you, Mr. Weiner.

22 Q Yes.

23 A Yes.

24 Q What was discussed?

25 A What was discussed? I told him that you had called

1
2 me and I was subpoenaed again before the Federal Grand
3 Jury. What in God's name do they want from me?

4 Q What did he say?

5 A In plain words.

6 Q What did he say?

7 A What he said? I'd rather not repeat what he said,
8 Mr. Weiner.

9 Q You are under oath, Mrs. Jacobs.

10 A I'm trying to think of what words he put into it.
11 How did he put it? He feels the whole thing is an
12 injustice and why I'm here and he was here. He doesn't
13 understand why, to be very honest with you.

14 In fact, I told him, Walt, I call him Walter. I
15 said I'm a pretty good investigator myself and at this
16 particular point I'm being prosecuted by going up before
17 the Federal Grand Jury, humiliated by going up before
18 the Federal Grand Jury. I would like to know what this
19 is all about and if I don't know, I'm going to find out
20 myself and call a few people.

21 Q Did you call a few people?

22 A Did I call a few people? Yes. I called Frank
23 Provenzano.

24 Q What was discussed with Mr. Provenzano?

25 A I didn't get him on the telephone. His number was

1
2 disconnected and that's just what I intended doing, Mr.
3 Weiner, is do my own investigating and find out why I'm
4 here.

5 Q Prior to your working for Mr. Cox, where did
6 you work?

7 A I was with Provenzano for a few weeks.

8 Q Ten or twelve weeks?

9 A Approximately.

10 Q And what was the name of his business?

11 A I believe -- I'm not too sure. It was Check
12 Adjustment Bureau.

13 Q Did Mr. Cox introduce you to Mr. Provenzano?

14 A Yes, he did.

15 Q Shortly thereafter you went to work for
16 Check Adjustment Bureau?

17 A That's correct.

18 Q Did you ever know Mr. Provenzano by the
19 name of Frank Pro, last name?

20 A That's what he calls himself. Frank Pro. Just in
21 the office people address him as Mr. Pro.

22 Q Did you call him that?

23 A No. Mr. Provenzano or Frank.

24 Q Did he ever according to any documents or
25 that you saw or telephone conversations that you overheard,

2 did he ever use that name in soliciting or talking to
3 collection accounts?

4 A Not that I remember.

5 Q Did you ever see that name on any letters
6 that he might have written?

7 A What name?

8 Q Frank Pro?

9 A. No.

10 Q Now, we asked you about this before. Did
11 you have any information from Mr. Provenzano that he
12 was connected to any people in organized crime?

A Do I -- you want to repeat that question?

14 Q Did you have any information anyway you
15 could have gotten it that Mr. Provenzano was connected,
16 related, associated with any people in organized crime?

17 A I don't have -- no. No. No. The answer is no.

Q Did Mr. Provenzano carry a gun?

10 A Yes.

can carry out with him in his new home.

21 A I used to see him in the office with the gun
22 quite frequently, yes.

23 Q Did he ever go out on visits to those
24 people who might have owed money and have accounts in
25 your office?

1 A To my knowledge?

2 Q Yes.

3 A When Mr. Provenzano left the office, I didn't know
4 where he went.

5 Q Did you ever see him leaving the office
6 with the gun still on him?

7 A Well, he came into the office with the gun. He
8 didn't leave it there. He left with the gun.

9 Q Did he ever say he was going out to make
10 collections? Did he ever tell you that he was going out
11 to make some collections?

12 A He never told me where he was going.

13 Q Do you know if Mr. Provenzano used any
14 other names in working accounts?

15 A He used the name Mr. Hunter.

16 Q James Hunter?

17 A I don't remember the first name.

18 Q Did he tell you why he used that name?

19 A No.

20 Q How do you know he did use it?

21 A Well, on his desk the name Hunter was on his desk.
22 Little name plate.

23 Q Name plate?

24 A Yes, on his desk. I think it said Hunter, Mr. Hunter.

ONLY COPY AVAILABLE

1
2 I'm not sure.

3 Q Did you ever overhear him making any contacts
4 over the phone using that name?

5 A Frank Provenzano and I worked in the same office.

6 His desk was in the same office as mine. I never listened
7 as God is my witness, any time Frank was on the telephone
8 to what who he was talking to, what he discussed.

9 Q You never casually overheard anything?

10 A I was never interested. I was always doing my
11 own work.

12 Q Do you know if he ever used the name Mr.
13 Morta?

14 A Not to my knowledge.

15 Q Do you know what that means in Italian?

16 A No.

17 Q M-O-R-T-A?

18 A No.

19 Q How did Provenzano get into the gambling
20 debt business, do you know?

21 A To my knowledge I'll tell it to you in my own
22 words. I went to work for Frank and supposed to run the
23 office and so forth and he supposed to get this very
24 large important folio in hospital accounts in the Nassau
25 County Medical Center and while I was working for Frank,

ONLY COPY AVAILABLE

he said something to me about Vegas accounts. He called -- in fact, he had me call a gentleman, Dave Woods, outside looking up in the phone book to see Circus Circus and certain hotels there managers and he had called a few of them and went down to see them and he came back with a couple of accounts from Circus Circus and that's how I know that he got into it and then he made a trip while I was still with him to Vegas.

He mentioned prior to the trip, he mentioned to me and I'm telling you everything I know, prior to the trip he mentioned to me that he was waiting for some Vegas accounts which I mean, I'm really surprised. I didn't even know that he was going to get Vegas accounts and worked it. He said he didn't get it and he was going to Vegas on his own.

Q Did he make more than one trip to Las Vegas during the time you were there?

A During the time I was there, no. Just one.

Q Do you know a Mr. Cooperman?

A Yes.

Q Who is he?

A Cooperman at the time represented Check Adjustment Bureau as their attorney. He was the attorney for Check Adjustment Bureau. Anything that had to be sued, I

2 referred over to Mr. Cooperman.

3 Q Do you know if he made the trip with Mr.
4 Provenzano?

5 A Yes. I was told that he was going with Mr. Provenzano.

6 Q Now, you said that you contacted Dave
7 Woods yourself or looked his name up in the phone book?

8 A Right. I met Mr. Woods outside in the hall and
9 I remember he had me call a few -- see if I could make
10 an appointment and the only one that he did make an
11 appointment with to see **coincidentally** was Mr. Woods in
12 Circus Circus.

Q Was it the first time you met Mr. Woods?

14 A Right.

Q. You talked to him on the phone, however?

16 A Once I even said that to Mr. Woods. You probably
17 don't remember. I spoke to him on the telephone.

Q Did he say he remembered?

A No, he didn't make a comment.

Q. Do you know a man named Frank Steiner?

A Yes

Q Who is he?

A Private investigator.

Q. Did he have any association with Mr. Provenzano?

If Frank Steiner had any association with Mr.

ONLY COPY AVAILABLE

1 Provenzano, I don't know. I have never seen him in
2 Mr. Provenzano's office.

3 Q How about with Mr. Cox?

4 A I've seen -- that's how I know Mr. Steiner through
5 Mr. Cox's office.

6 Q And what association did Mr. Steiner have
7 with Mr. Cox?

8 A What association did Mr. Steiner have with Mr. Cox?
9 He was a private investigator which I assume he is still
10 a private investigator and he used to bring in work,
11 credit reports for Mr. Cox to do.

12 Q Did you know that Frank Steiner was a
13 retired Nassau County detective?

14 A Yes.

15 Q And did you work with Mr. Steiner or any
16 of the reports that Mr. Steiner brought in on Prompt
17 Reports?

18 A Did I work?

19 Q Did you work on any of those matters?

20 A Yes.

21 Q Which ones?

22 A Oh, see, I don't remember. I couldn't even
23 recall right now. He wanted me to try to reach somebody
24 to -- on a client to serve him with a summons. Things
25

1
2 like that where he will be so he could be served. I really
3 don't recall it.

4 Q Do you know if Steiner had any connection
5 at all with getting Las Vegas accounts for either Mr.
6 Cox or Mr. Provenzano?

7 A I don't know as a fact, Mr. Weiner. I'm here to
8 tell you everything I know.

9 Q Tell us what Mr. Cox or Mr. Provenzano told
10 you about it.

11 A I'm the type of person, I don't like to say any-
12 thing unless I personally know it to be true. From talk
13 I heard. This is just talk. I don't know.

14 Q Just tell us who you heard it from.

15 A Who I heard it from?

16 Q Yes.

17 A It was so long ago. I'm trying to recall. I
18 remember Frank Provenzano telling me that somebody was
19 down in Vegas, a former retired police officer and was
20 supposed to bring back work for him or get him an in on
21 the markers, one of the hotels in Vegas. I had then --
22 I had related it later onto Mr. Frank Steiner when I was
23 with Walter Cox.

24 Q Does the name Nat Bonora mean anything to
25 you?

1
2 A Yes. Nat Bonora is a private investigator.

3 Q How do you know him?

4 A Through Walter Cox. Nat Bonora would have some
5 cases on his own to investigate and he would need reports
6 on it and we had done a few reports for Nat Bonora.

7 Q In fact, Mr. Bonora at one time was partners
8 with Frank Steiner, was he not?

9 A If he was, I don't know. That's what I was told.
10 If he was, I don't know it to be a fact, but I was told
11 at one time they were partners and they broke up.

12 Q Did you have a conversation with Mr.
13 Provenzano last week or were you unable to reach him?

14 A I haven't spoken to Frank Provenzano on four,
15 five months.

16 Q The last time you talked to him was your
17 last appearance before the Grand Jury, was it not?

18 A I don't remember, to be very honest with you.

19 Q Do you remember what was discussed?

20 A With me and Frank?

21 Q Right.

22 A (No response.)

23 Q You don't remember?

24 A Last time what I said to Frank when I spoke to
25 Frank Provenzano?

1
2 Q Right.

3 A As a matter of fact, no. I don't remember the
4 last conversation, if there was a conversation between
5 me and Frank after the time I was with -- before the
6 Grand Jury. I know Frank Provenzano wanted to talk to
7 me and I didn't want to talk to him.

8 Q Was there a conversation with Mr. Provenzano
9 after one of you was interviewed by the F.B.I. Do you
10 recall that?

11 A You mean when they were at my home?

12 Q I believe there was a call made either
13 by you or by Mr. Provenzano to you concerning the F.B.I.
14 wanting the name of Mrs. Kramer.

15 A Right. You refreshed my memory. Frank Provenzano
16 called me telling me the F.B.I. wanted to see me.

17 Q What was your response, if any?

18 A I was very angry.

19 Q At Provenzano?

20 A Yes.

21 Q What for?

22 A Why would the F.B.I. want to see me?

23 Q Do you think he gave them some wrong
24 information about you?

25 A Well, that's what it would appear. I can't say

1 because I don't know, but that's what it would appear,
2 wouldn't it? I have to be honest. That's what it appears.

3 Q Does it still appear that way to you?

4 A It appears that way, but I just can't see why
5 Frank would do something like that. He has no reason
6 to.

7 Q Now, there was some crossed words, I believe
8 when you left his employ, is that right?

9 A I was supposed to get paid and I didn't get paid
10 and I was very upset on pay day came and I didn't get
11 paid and I went home and Frank called me and we had
12 a few words on the telephone and he even asked me to
13 come back to work for him, but I didn't want to.

14 Everybody has a few crossed words when they get
15 angry and I understand human beings. I guess Frank does
16 too. He said forget about it. Come on it. The pay
17 should have been there and it wasn't.

18 Q I asked you, I think, the last time if he
19 said to you, "You threatened me, kid, and you won't walk
20 the streets."

21 A Yes. Frank said that. He said that in a fit of
22 anger. I can't say anything derogatory that he would do
23 that. I have to be honest with you. I'm not sticking
24 up for Frank Provenzano, but anybody will say something
25

1
2 when you get him mad and in anger.

3 Q I believe that we discussed the last time
4 that Provenzano instructed you to tape record some
5 conversations, tape record your conversations?

6 A Yes. He was a fanatic about that. He liked things
7 taped on the telephone.

8 Q And you said you did not tape record anything?

9 A Oh, I taped a few and I don't recall who it was
10 in collections. Yes.

11 Q Do you know if you tape recorded any
12 conversations concerning the Stoenesifer account?

13 A I don't remember. I don't remember who was taped.
14 It wasn't anything of importance.

15 Q What was done with the tape recordings
16 that were actually recorded?

17 A I have no idea.

18 Q Did you give them to Provenzano?

19 A I never took them. Frank was in the room while
20 I was talking to the party on the telephone and taped
21 it and had it untaped.

22 Q Oh, he would do that?

23 A He would do that. I think Frank liked to listen
24 to the conversation on collection, the way the other
25 party, what they had to say and what I had to say. I

1 think it was just a toy with him. I'm assuming. I don't
2 know.
3

4 Q Did you ever see what he did with the
5 tape recording?
6

7 A No.
8

9 Q Did you ever see him record while he was
10 talking on the telephone?
11

12 A Yes.
13

14 Q On many occasions?
15

16 A No.
17

18 Q What about Mr. Cox? Did he tape record?
19

20 A I have never seen personally myself Mr. Cox tape
21 record any conversation on the telephone.
22

23 Q When you worked for Prompt Reports, you
24 didn't tape record anything, did you?
25

A No.
1

2 Q Have you ever heard any of these tape
3 recordings either from Cox or Provenzano?
4

5 A Yes. We would tape it back at Provenzano's office.
6 We would tape it back and see what the discussion was
7 and listen to the two parties. I don't recall who it was.
8

9 Q Any gambling accounts that you listened to?
10 A It was on a gambling account, right.
11

12 Q Which one?
13

1
2 A I don't recall the name. When I was with
3 Provenzano he had only had two or three markers and I
4 can't recall who it was.

5 Q Do you know if it was the Stonecifer
6 account?

7 A I don't remember. That's the truth.

8 Q Have you ever heard of Joseph Roma?

9 A Yes. I heard the name Joseph Roma.

10 Q In what connection?

11 A Somebody that had worked for Provenzano which is
12 a friend of mine in the business. I know him for a few
13 years. He told me that the F.B.I. were in the office
14 questioning him and they questioned him if he ever used
15 the name Roma. That was the first time I heard the name
16 mentioned.

17 Q Let me get the name of this individual.

18 A Carey Efferstein.

19 Q Did he say that he did use the name Roma?

20 A No. He didn't say he used it. He was questioned
21 by the two F.B.I. agents that day.

22 Q We are asking about Joe Roma and I think
23 you said that Carey Efferstein --

24 A First time I heard the name mentioned was Carey
25 told me that when the two F.B.I. agents came up to see

1
2 Frank Provenzano they questioned him and I believe he
3 said it was so long ago, if he ever heard the name Roma.
4 If he uses the name Roma.

5 Q Did he say he used the name Roma?

6 A No.

7 Q Did you find out later that somebody did
8 use the name Roma?

9 A No. How would I find out? I assumed myself
10 somebody was using the name Roma, they were investigating
11 who used the name Roma, anyone would assume that. I didn't
12 care who used the name Roma or what it was about.

13 Q When we were chatting earlier this morning,
14 I think you mentioned another individual you thought
15 using the name Joe Roma --

16 A No. I didn't say Roma.

17 Q Okay. We'll get to that in a minute.

18 Q Do you know a man named Frank Miller?

19 A It sounds familiar. I can't place it right now.

20 Q Did a man by that name work for Check
21 Adjustment Bureau?

22 A Wait a minute. Miller, Miller. Isn't that Miller
23 that worked for, I believe I do know Frank Miller. Isn't
24 he the one that worked at one time in Colonial Commercial
25 Corporation, later went to work for Frank Provenzano, that's

2 his name Frank Miller.

3 Q That maybe the one. What did he do for
4 Provenzano?

5* A I don't know, but I knew him casually from another
6 company where we worked.

Do you know the name Freddie Migliore?

8 A No.

Q How about a Mr. Garrett?

A That sounds familiar, but I can't place it.

11 Migliore, that may have been an account. One of the
12 markers, vaguely I can't recall.

Q How about Garrett?

14 A I can't recall.

15 Q How many people besides yourself were
16 working for Check Adjustment Bureau during the time you
17 were there?

18 A During the time I was with Frank for twelve weeks,
19 there was his secretary and office manager, Claire. There
20 was this part-time woman, Rose and to my knowledge during
21 the day there was nobody else. If he had people come
up there in the evening, I don't know.

Q. Any other men besides himself?

A During the day?

Q During the time you were there.

ONLY COPY AVAILABLE

1 A During the day, no. When we started to work on
2 the hospital accounts, he introduced me to, I can't recall
3 his name now and Frank told me he was going to do some
4 collections in the evenings on hospital accounts. Colbey
5 (phonetic) and that's whether he did it or not, I don't
6 know, but that's what Frank told me that this guy Colbey
7 was going to work, do some collections on some hospital
8 accounts for him.

9 Q Okay. I would just like to give you a
10 couple of names that we have received from the Check
11 Adjustment Bureau list of marker accounts and see if
12 you recognize working on any of these.

13 Sam Bernard, do you recognize that name?

14 A I worked on, I would say four at the most. Harry
15 Stoneseifer, I'll always remember that name. There were
16 two or three others and I, if you tell me where they
17 came from, New Jersey, I could place it or otherwise I
18 couldn't remember the names.

19 Q Scarsdale, Sam Bernard?

20 A I can't recall it.

21 Q Does the name Louis Broccoli mean anything
22 to you?

23 A I can't recall it. I may have worked it, but I
24 can't recall the name.

1
2 Q How about Jerry Rabinowitz?

3 A No.

4 Q You do remember Harry Stoneseifer?

5 A I never spoke to Harry Stoneseifer, but I'll always
6 remember Harry Stoneseifer.

7 Q How did you get the information on the
8 Stoneseifer account? Did Mr. Provenzano give it to you?

9 A What information?

10 Q The information as to what the amount of
11 the debt was, where to get in contact with Bill Stoneseifer
12 and so forth?

13 A Well, he gave me which I can't recall at the time,
14 what he had. If it was a photostat of a credit application,
15 I can't recall. So I can't be honest with you. I'd
16 rather -- I don't recall what it was. If it was an
17 application, a photostatic copy of a credit application,
18 a signed marker, I can't recall actually. It's so long
19 ago.

20 Q Did Provenzano discuss it with you?

21 A The only thing he said to me, he got this from
22 Dave Woods' office and he hopes to collect it and see if
23 I can do anything on it to obtain some more work. He was
24 trying to get his foot in the door so to speak --

25 Q Did you know who at the time, who the

1
2 debtor was whether it was Harry Stonescifer or Bill
3 Stonescifer?

4 A To me it was only Harry Stonescifer. I never
5 came across in the work that I was doing that he was
6 using another name.

7 Q Did you get any information from Dave Woods
8 at the time of the first referral of the account to you?

9 A No.

10 Q And later did you talk to Woods about the
11 account?

12 A I spoke to Dave Woods once and I don't remember
13 what the conversation was. Mister, I think Provenzano
14 told me to call him up and it was just office procedure.
15 It wasn't anything of importance.

16 Q Was it to fill Mr. Woods on the progress?

17 A I think so. I'm not too sure.

18 Q Did Mr. Provenzano tell you that Woods
19 had made some effort to collect the debt?

20 A No.

21 Q Did Woods tell you that?

22 A No. I never discussed that with Woods. If I --
23 I had one conversation with Mr. Woods outside now in
24 the corridor first time I met him and on the telephone
25 I think Mr. Provenzano, I can't remember office procedure

1
2 that maybe I located, I located a place of business on
3 Harry Stoneseifer. Maybe that's what I called Woods
4 about. Do you know what I mean? I can't remember to
5 be honest with you. It wasn't --

6 Q Was any discussion by Bill Stoneseifer when
7 you had several conversations with him?

8 A That was Harry Stoneseifer's brother?

9 Q Right. That Mr. Woods had made a visit
10 attempting to collect the debt from Bill?

11 A I can't recall that to be honest with you. I do
12 remember one thing that he said he'd been questioned
13 before on this and he told everyone the same thing. He
14 doesn't know where his brother is.

15 Q Was there any question in your mind as to
16 who the debtor was?

17 A None whatsoever.

18 Q It was Harry?

19 A Harry Stoneseifer.

20 Q Now, if you saw the markers that were
21 signed from the Puerto Rican hotel --

22 A It wasn't a Puerto Rican hotel.

23 Q Did you see markers? Do you know what a
24 marker is?

25 A I know what a marker is.

ONLY COPY AVAILABLE

1 Q. Have you seen them?

2 A. Yes.

3 Q. Did you see markers in the Stonesclifer case?

4 A. I can't recall, Mr. Weiner, if it was a check that
5 was signed or a marker and I'll be honest with you. I
6 can't recall what it was.

7 Q. Do you remember the name that was on that?

8 A. It had to be Harry Stonesclifer, otherwise I would
9 remember if it was any other name.

10 Q. Could it have been William or Bill Stonesclifer?

11 A. No.

12 Q. No?

13 A. No. Otherwise I would remember.

14 Q. So you saw a credit application, you think?

15 A. I think it was a credit ap. It's so long ago.
16 I don't remember what it was.

17 Q. Let me just get this straight for the Grand
18 Jury to understand.

19 You understood that Bill was not the debtor
20 right from the start?

21 A. Yes.

22 Q. Why did you continuously talk to Bill in
23 terms of trying to make a collection of the debt?

24 A. I never asked. I never asked Harry Stonesclifer's

1
2 Bill for the money, but I was asking him where I could
3 reach Harry Stoneseifer.

4 Q Would you have accepted -- would Check
5 Adjustment Bureau accept payment from Bill Stoneseifer?

6 A I don't know that you would have to ask Frank
7 Provenzano.

8 Q Suppose Bill had offered to pay Harry's
9 debt, what would you have said?

10 A What I would have said?

11 Q You would have accepted then?

12 A Would I have accepted it?

13 Q Yes.

14 A I don't know why he would want to pay his brother's
15 debt.

16 Q Well, just answer the question.

17 A Well, would I have accepted it? Well, I would have
18 said send the check in. What else would I say?

19 Q Did you talk to Mr. Provenzano about the
20 fact that the debt was Harry's debt, not Bill's?

21 A No. I never discussed it with him. I might have
22 mentioned or I wrote a report on it which I know that
23 Frank Provenzano took to Vegas to him, to other casinos
24 to show, you know, our procedure. I never discussed his
25 brother with him. I called his brother. His brother

ONLY COPY AVAILABLE

1 doesn't know where he is. He would like to know. In
2 fact his brother was very nice. He has told me that he
3 was working for a Cooperman in New York. He told me
4 everything he knew about it. Actually that was Cooperman
5 Lab and that was the boss' name. He was very cooperative.
6

7 Q Did Provenzano tell you he had made some
8 calls concerning the Stoneseifer account?

9 A No. If he did, I wasn't aware of it.

10 Q He never talked about that?

11 A (No response.)

12 Q The answer is "no"?

13 A No.

14 Q Did Provenzano ever tell you that he was
15 going to send collectors out on the Stoneseifer account?

16 A No.

17 Q Or that he was going to go out himself to
18 attempt to collect?

19 A No. We never actually knew where Harry Stoneseifer
20 was. I located a place of business, but -- and an
21 address and he didn't go back to work and he wasn't at
22 that address.

23 Q Did you ever have as your purpose in
24 contacting Bill the collection of the debt?

25 A You want to repeat that question?

1
2 Q Did you ever have as your purpose in
3 contacting Bill Stoneseifer the collection of the debt?

4 A None whatsoever.

5 Q It was always to locate Harry?

6 A Definitely.

7 Q How many calls did you make to Bill
8 Stoneseifer?

9 A Oh, I would say approximately maybe three or four.

10 Q Only three or four?

11 A That I remember trying to be honest that I
12 remember.

13 Q And it's your testimony that you knew
14 nothing of Provenzano also working the Stoneseifer
15 account?

16 A If Frank Provenzano worked the Stoneseifer
17 account after I left the office at 5 o'clock or on a
18 Saturday or after I left him, I don't know.

19 Q But he never worked it in conjunction with
20 you, that is you would make one call, he would make
21 another? You would discuss what happened and so forth?

22 A No. Frank Provenzano as you met him, I mean, as
23 far as he wasn't what you call a collector in this
24 business as calling up somebody and so forth on the
25 telephone, I mean I think he would know how to approach

ONLY COPY AVAILABLE

1 him.

2 Q What do you mean by that? How would he
3 approach them?

4 A Oh, I don't want you to misinterpret what I mean
5 now. Mr. Weiner, I never heard Frank Provenzano on the
6 telephone asking anybody for money.

7 Q You think he would threaten them?

8 A Do I personally think that? No. I personally
9 think that, no.

10 Q Now, you had some other calls with other
11 members of the Stonesclifer family, Pamela Stonesclifer
12 for one, is that right?

13 A I don't remember who's Pamela. You have to
14 refresh my memory.

15 Q The ex-wife of Harry Stonesclifer.

16 A Yes.

17 Q How many conversations did you have with
18 her?

19 A I don't remember. It might have been one or two.

20 Q What was the purpose of calling her?

21 A Well, at the time when I located Pamela, living
22 in Long Island, I didn't know that Harry and her were
23 separated.

24 Q Did you make any effort to collect from

1
2 Pamela or to tell her that somebody owed a debt and
3 somebody had to pay?

4 A Did I make any effort to collect from Pamela, no.

5 Q What was your purpose in calling her?

6 A To find out where her husband, Harry was. I didn't
7 know at the time when I called her they were separated
8 or divorced. I don't remember what now.

9 Q Did you make a call to Marie Kay Stoenesifer
10 in Gettysburg, Pennsylvania, the mother of Harry?

11 A Yes, and Bill. Yes.

12 Q How many calls did you make to her?

13 A A couple.

14 Q What was the purpose of calling her?

15 A Trying to locate her Harry Stoenesifer.

16 Q Did you make any effort to collect the
17 debt from her?

18 A No.

19 Q Did you make a call to any other members
20 of the Stoenesifer family?

21 A If I did, I can't remember. He had a large family.

22 Q Did you call a cousin in South Carolina?

23 A I can't remember.

24 Q Did you call another sister in York, Pennsylvania?

25 A I may have, but I don't remember, Mr. Weiner.

1 Q. What was the purpose if you made these calls?

2 A. The purpose was to reach Harry Stoneseifer.

3 Q. I'm going to show you Grand Jury Exhibit
4 number 14 which was marked on July 15, 1974 and ask if
5 this document refers to the report that you said you
6 wrote.

7 A. This looks familiar. I can't recall to be very
8 honest with you. It was so long ago.

9 Q. Have you ever used the form like that to
10 keep track of the contacts on a specific account?

11 A. A form like this, no. All I would do is just
12 scribble on a piece of paper and attach it to the account.

13 Q. Have you ever seen anything like that
14 written up before?

15 A. No. First time.

16 Q. You have never seen that particular
17 document?

18 A. This, no. The first time.

19 Q. Let me refer to some of the entries on it.
20 The client says Circus Circus Hotel. The applicant,
21 Harry Stoneseifer. Wife, Pamela. Says divorced and there's
22 a, it looks like a business address. How do you pronounce
23 that?

24 A. Syosset Hospital.

2 Q Technician and references Mrs. William
3 Stoneseifer and Bill Stoneseifer, gas station owner.
4 Amount of claim, \$5,060.00. Bank reference and then
5 on the other side, the second page, May 16, 1973, phoned
6 gas station and the number is given.

7 Would Mr. Provenzano possibly have gotten --

8 A I had made up a report for Frank on what was done
9 on Harry Stoneseifer. Now, this is similar.

10 Q But the second page --

11 A It looks like -- I mean somebody is giving a
12 status on what was done on the account. I had given
13 a status. If this is the identical status, I can't
14 recall, to be honest with you.

15 Q Well, again on May 16th in addition to
16 phone gas station, it says phoned Pamela and it says
17 subject known as Harry Stone.

18 A Right. That he was also known as Harry Stone.

19 Q There's an address in Farmingdale for an
20 address of his ex-wife, place of business. It says
21 75 Comely Drive in Lincoln Park, New Jersey.

22 A I don't know who works there. As I said, this
23 doesn't look like -- I don't know whose place of business
24 this is.

25 Q I want to ask you about the entries for

1
2 May 17th where it lists derogatory reports for various
3 institutions.

4 A This is something you put through the credit bureau.
5 If you are a member of the credit bureau. Anybody would
6 come back with this. Right here. Right here. If you
7 are a member of the bureau, anybody would come back with
8 this information.

9 Q Did you do that through the credit bureau?

10 A I didn't personally call the credit bureau. Any-
11 thing I wanted to put through the credit bureau I would
12 give to Rose.

13 Q And page three has some interesting
14 information.

15 Could you tell me if you have ever seen
16 anything like this before? Let me just describe it.
17 It appears to be credit coded report and various
18 information dating from 1966 concerning --

19 A This looks like a report from the credit bureau
20 on Harry Stoneseifer. Judgments from various businesses.

21 Q Have you ever seen that before?

22 A I can't recall to be honest with you. I knew all
23 along that he owed banks and finance companies.

24 Q The fourth page appears to be a continuation
25 of the credit report.

1

2 A Right, if I had it at the time, I don't recall.

3 Q And the last page of Grand Jury Exhibit
4 number 14 has some other information, a report from
5 Westchester Square Hospital giving the description of
6 the subject, age, weight, so forth.

7 A Yes. I think I might have gotten this from the
8 hospital. Yes. This looks -- I may have gotten this
9 information for Frank at the time. They described what
10 he looked like and so forth. From a hospital that he
11 worked there.

12 Q It says claim subject returned to Pennsylvania
13 return town of mother.

14 A Right. I remember calling the hospital. They
15 said he worked there and I spoke to somebody in the
16 bookkeeping department that he left suddenly, that he
17 had a nice apartment in the neighborhood that he just
18 furnished. Woman was being very friendly and giving
19 me all this information and all of a sudden somebody
20 was after him and he left in my course of trying to
21 locate Harry Stoneseifer.

22 Q Now, the entry for May 21st says security
23 check made on ex-wife telephone.

24 A Yes.

25 Q Is Check Adjustment Bureau and the method

ONLY COPY AVAILABLE 39

2 you use able to get toll records?

3 A You know as well as I do that's illegal, Mr.
4 Weiner.

5 Q It says here toll calls made from Farmingdale
6 which is Pamela Stoneseifer's number obtained number
7 of area code 717-334-3656 listed to Mary Kay Stoneseifer,
8 Gettysburg, Pennsylvania.

9 A Yes.

19 Q Is this an illegal transaction?

11 A Mr. Weiner, you know it as well as I do that you
12 cannot obtain that from the telephone company, any agency
13 or anybody.

11 Q How was it obtained here?

15 A How was it obtained there?

16 Q Right.

17 A I can't answer that, Mr. Weiner.

18 Q Did you obtain it?

18 A I don't remember, Mr. Weiner.

20 Q Did Provenzano to your knowledge have any
21 method of getting information from telephone companies
22 through telephone company personnel about toll records?

22 A No.

21 Q He did not?

25 A Not to my knowledge.

1
2 Q Did you or do you?

3 A Do I have any personal way of getting somebody's
4 phone number?

5 Q Right. I'm talking about telephone toll
6 records from people.

7 A You want to repeat the question? What is it
8 exactly you want to know, Mr. Weiner?

9 Q Do you have any contact with telephone --

10 A Do I have personal contact, no.

11 Q Do you have any way that you have in the
12 past gotten telephone number information in some means
13 or another?

14 A Have I ever done that in the past?

15 Q Yes.

16 A I can't answer that question, Mr. Weiner.

17 Q Why not? Are you asserting your Fifth
18 Amendment privilege?

19 A That's correct.

20 Q Now, did you obtain the telephone number
21 of Mary Kay Stoneseifer in Gettysburg, Pennsylvania on
22 the Stoneseifer account?

23 A I believe I did to be honest with you.

24 Q How did you do it?

25 A I can't remember, Mr. Weiner. I won't answer that.

ONLY COPY AVAILABLE

1 I won't answer that question.

2 Q And the reason you won't answer, are you
3 asserting your Fifth Amendment privilege against self-
4 incrimination?

5 A That's correct.

6 Q Now, the report also indicates that --

7 A Am I on trial here, Mr. Weiner?

8 THE FOREMAN: No, ma'am, you are
9 just to answer the questions put to you
10 by the attorney.

11 Q There's an entry on May 21st which indicates
12 the subject mother was phoned. Mother conversation went
13 as follows:

14 Harry just left home for New York. Expect
15 him back on Friday, 5/25/73. Said son is not working.
16 Just applied for job in Pittsburgh which he hopes to get.
17 Does not know where he's staying in New York.

18 A That sounds familiar.

19 Q Did you record such information?

20 A It sounds familiar.

21 Q Now, entries on May 22, 1973 if you will
22 read along with me. It indicates that several banks in
23 Queens, Brooklyn areas were checked. Did you check those
24 banks?

1
2 A I may have. It's so long ago, Mr. Weiner.

3 Q And an address in Glen Oaks, New York.

4 A Yes, I may have.

5 Q You got that information?

6 A Yes.

7 Q Phoned P.O.B.

8 A Place of business.

9 Q To verify employment of subject. Says
10 Mr. Cooper owner of lab verified subject does work at
11 lab, but presently on vacation.

12 A Right.

13 Q Did you obtain that information?

14 A Yes, I did.

15 Q And you recorded it somewhere at Check
16 Adjustment Bureau, in some sort of form or --

17 A On a piece of paper, right. During my credit
18 investigating on Harry Stoneseifer, right.

19 Q And then later on May 23rd it says it is
20 confirmed that subject is living with mother.

21 A No. It is not confirmed.

22 Q That's what it says.

23 A Well, I don't care what it says. I never confirmed
24 that the subject was living with the mother. The only
25 thing I confirmed with Mr. Provenzano that the subject

ONLY COPY AVAILABLE

1 would visit his mother on weekends at times. That the
2 mother confirmed with me not living with his mother.

3 Q You would not have entered --

4 A No, because I never confirmed that. Visiting his
5 mother.

6 Q Now, I would like to ask you a few questions
7 about your work at Prompt Reports and Walter Cox.

8 Q When did you meet Mr. Cox?

9 A Several years ago.

10 Q Was he the owner of Prompt Reports at that
11 time?

12 A No. Mr. Cox and I worked for a company called
13 Coburn Credit Corporation. I don't know. It goes back
14 four, five years ago. That's how I met Walter Cox.

15 Q When did you start working for Prompt
16 Reports?

17 A Back in December.

18 Q December, '73?

19 A Yes.

20 Q How long did you work there?

21 A Off and on until the end of the year. I would
22 leave and go back part time and so forth. He was
23 establishing a business.

24 Q I think the last time you said you worked

1 off and on for about six months with him, is that correct?

2 A I don't recall. I can't recall right now.

3 Q In fact, when you appeared on June 10th
4 before this Grand Jury I think you had said that you just
5 stopped work that previous week for him?

6 A I don't recall. I would stop and I would go back
7 and so forth, but I definitely do not work for Walter
8 Cox or do I have any intentions of going back to work
9 for Walter Cox.

10 Q During the time you worked for him, did
11 he use any other names on his accounts?

12 A Williams.

13 Q Walter Williams?

14 A Walter Williams.

15 Q Any other names besides Williams?

16 A Not to my knowledge.

17 Q Do you know how Cox got into the gambling
18 debt business?

19 A How he got the markers?

20 Q Yes.

21 A I recall very briefly, very briefly in conversation
22 that Mr. Cox was telling me that he went to Vegas with
23 Frank Steiner. It was through an introduction of Frank
24 Steiner and he got it on his own, but this was very
25

1 briefly, whether that's how he got it, I don't know, but
2 that's a brief conversation I remember Mr. Cox telling
3 me.

4 Q When you went to work for Mr. Cox in
5 December, did he already have some of these gambling
6 accounts?

7 A Yes.

8 Q Did you work on them right away?

9 A Yes.

10 Q Did you work on any other matters?

11 A Yes. I told you I know Natty Bonora, that he
12 did credit reports aside from that. I had done a few
13 credit reports for Natty Bonora.

14 Q How many other people during the time
15 you worked for Prompt Reports were working there besides
16 Mr. Cox and yourself?

17 A Well, you want to phrase that another way? Do
18 you mean that came in, that was checked with the company
19 in some manner?

20 Q Employees?

21 A Employees, I don't know at this particular point
22 who was an employee and who wasn't.

23 Q Do you know a Tony Domingo? Does that
24 ring a bell?

1
2 A Tony Domingo also known as Dennis Weinheim was
3 one of the men working there. He used the name Tony
4 Domingo.

5 Q How do you spell his last name Weinheim?

6 A I believe it's W-E-I-N-H-E-I-M. I'm not too sure.

7 Q Was he doing essentially the same thing
8 you were?

9 A That's correct.

10 Q Do you know of your own knowledge if he
11 made any visits to various people in order to --

12 A I told you outside before I came in to my knowledge
13 he only made one call to somebody on a marker.

14 Q Do you remember who that person was?

15 A I don't recall the name, but I knew he owned a
16 massage parlor in New York.

17 Q Was it Sam Bernard? Professional Weight
18 Control Center, 455 Central Park Avenue, Scarsdale,
19 New York?

20 A I don't know. That could have been. I don't
21 know. I can't remember. All I know that it struck the
22 office pretty funny that here a man that owned a few
23 massage parlors and Dennis went down with this other
24 fellow to see him on it.

25 Q Who was the other fellow that went down

ONLY COPY AVAILABLE

1 with him?

2 A Frank Rabito, I believe.

3 Q Did he work for Mr. Cox at the time you did,
4 Rabito?

5 A Dennis and Frank were only with Mr. Cox for a short
6 time. They came. I don't know when they came. When
7 they left a few months, a couple of months. I don't
8 remember the months, Mr. Weiner.

9 Q Did Dennis tell you why he used the name
10 Tony Domingo?

11 A No. He didn't tell me why he used it, but I'm
12 going to assume he used the name. This is Tony Domingo
13 calling that it sounds more impressive than Dennis
14 Weinheim calling.

15 Q What do you mean by it sounds more impressive,
16 that name sounds more impressive?

17 A Well, I think so. That's my interpretation. He
18 never told me, but I'm telling you my own personal
19 interpretation.

20 Q More impressive in terms of it being an
21 Italian name, is that what you are driving at?

22 A Yes. I would say so. It sounds more impressive
23 than this is Dennis Weinheim.

24 Q Do you know at the time you were employed

1
2 there whether Mr. Cox employed any Negro people?

3 A Yes.

4 Q Who might that be?

5 A Well, he wasn't an employee. As I said, there were
6 a few people there. I wouldn't consider him an employee.
7 There was this young man, Branch, Henry Branch.

8 Q What did he do?

9 A What did Henry do? His exact duties to be very
10 truthful with you, I don't know. Henry would come in
11 and sit in the office and read a paper.

12 Q Did he make any phone calls for collections?

13 A No.

14 Q Did he go out on any collections to your
15 knowledge?

16 A Yes. Henry went down to collect. I asked him,
17 he gave it to Walter once. He collected some money on
18 one account for me.

19 Q Was that a gambling account?

20 A Right. The poor woman was sick and Henry went
21 down and picked up the money, right on a couple of
22 accounts.

23 Q Did he go alone? Did Henry go alone?

24 A Yes. This is an appointment where it was confirmed
25 appointment where he said I have the money. Come on down

ONLY COPY AVAILABLE

1 and pick it up. Like sending a messenger. That's what
2 more or less Henry was to pick it up. That was it.

3 Q Does the name Joney Atkins mean anything
4 to you?

5 A Yes.

6 Q Could you tell us in what connection?

7 A Walter Cox held, I don't know markers on him on
8 one of the hotels. Right now I don't know which hotel
9 it was.

10 Q Do you remember talking to Mr. Atkins?

11 A I spoke to Mr. Atkins several times.

12 Q He lived in Sarasota, Florida, is that
13 correct?

14 A Yes. That's correct.

15 Q Do you remember what the conversations
16 were with Mr. Atkins and when they took place?

17 A Briefly the conversation was this. I remember
18 a letter when I first saw the file that Mr. Atkins had
19 sent to Walter Cox also known as Walter Williams saying
20 that he acknowledges the debt, not in those words, but
21 something like that and when things -- a situation will
22 change he will pay.

23 Q Do you know if Mr. Cox also made calls to
24 Joney Atkins?

1
2 A Yes. Mr. Cox, I know has spoken to Joney Atkins.

3 Q Why did both of you work that same account?

4 A Why not?

5 Q Well, weren't you kind of double-teamin';
6 him?

7 A I don't know what you mean.

8 Q Why couldn't just one of you work the
9 Atkins account instead of both of you making periodic
10 calls? I don't understand the technique.

11 A Well, there's no such technique in that business,
12 Mr. Weiner.

13 Q There isn't?

14 A There isn't.

15 Q Did you threaten Mr. Atkins?

16 A I never threatened anyone in my life, Mr. Weiner.
17 I have no need to or reason to.

18 Q Do you know if Mr. Cox tape recorded any
19 conversations with Mr. Atkins or did you?

20 A I never did. Whether Mr. Cox did, I don't know.

21 Q He never played anything back for you, did
22 he?

23 A I can't recall.

24 Q I think a few minutes ago you said that
25 sometimes Provenzano would play back and you would listen

ONLY COPY AVAILABLE

1 2 to some tapes?

3 A Yes.

4 Q Did Cox do the same?

5 A To be very honest with you, you have me bedaffled
6 here, I don't recall.

7 Q Just take your time.

8 A I don't recall. I know Cox never had -- Mr. Cox
9 never had a tape recorder machine in his office. Whether
10 he brought one in toward the very end, I think he did,
11 I can't recall. It was unimportant to me. It was no
12 issue that I would make a point of remembering that was
13 his business.

14 Q Do you know if Cox used a speaker?

15 A Yes, he did. He liked using a speaker.

16 Q He would have his hands free?

17 A Right.

18 Q Did you ever use a speaker?

19 A No.

20 Q Were you ever asked to get that physical
21 setup up promptly, was your desk located near his?

22 A It was two different offices. He would have
23 the door open. He could look directly at me if he had
24 his door open from his office. Yes, not in the same
25 office.

2 Q There was no opportunity for there was with
3 you and Mr. Provenzano to overhear Cox's conversation?

4 A Not if he had the door closed. If he had the
5 door opened, 99 per cent of the time I never listened
6 to him.

7 Q Do you know what happened to Joney Atkins
8 debt?

9 A I don't believe it was collected by Mr. Cox. I
10 can't recall. I don't believe it was collected. No.

11 Q Does the name Maurice Grey mean anything
12 to you?

13 A Yes.

14 Q In what connection?

15 A I can't remember the hotel, but we had markers
16 on Mr. Grey.

17 Q Do you know if he okayed a marker for
18 another named individual named Harold Mc Gintuck (phonetic).
19 Does that --

20 A That rings a bell, whether it is so or not, I
21 don't remember. It could be. It sounds familiar, but
22 I can't pin it down.

23 Q How many calls did you make to Mr. Grey?

24 A Several.

25 Q And did Mr. Cox also make calls to Mr. Grey?

ONLY COPY AVAILABLE

1 A Yes.

2 Q Did you both work that account, too?

3 A Yes.

4 Q Do you remember what the outcome of the
5 Grey account was?

6 A Yes. I remember the outcome of the Grey account.

7 He was very nasty on the telephone and Mr. Cox spoke to
8 him.

9 Q What do you mean by nasty?

10 A Nasty.

11 Q What did he say?

12 A I can't remember in words, but he was very nasty
13 on the telephone when you would call him. Like he said
14 I can't recall whether he had signed a marker for someone
15 else. We had called him because it was his signature
16 on the marker.

17 Q Did he ever threaten you or Mr. Cox? Did
18 Mr. Grey ever threaten you or Mr. Cox?

19 A I was threatened numerous times when I made some
20 phone calls. I can't remember who did the threatening
21 on what particular name it is right now. It's unimportant,
22 but I was threatened numerous times when I would just
23 call up and say we represent International. We represent
24 the Desert Inn. I'm calling from so and so's office.

1
2 That's how the conversation went. We have your markers
3 here. We would like to -- it's been a couple of years.
4 Don't you think, you know, talk to them nicely.

5 Q What would they say in terms of making
6 threats on you?

7 A A few of them that I would call were so well
8 connected which I had never come across people well
9 connected before up until that time that in other words,
10 threaten me where do I have the audacity, to call them
11 up and asking them for money.

12 Q Did they threaten you with physical
13 violence?

14 A Yes.

15 Q Did any of them say they were going to
16 call the F.B.I. or the police? I guess that's a different
17 kind of threat.

18 A Yes. I guess that would be a different type of
19 threat where some did say that they called the F.B.I.
20 and they did come back. I think I said that's a good
21 idea. Call the F.B.I.

22 Q Getting back to Maurice Grey, was there
23 ever a time that -- I think you would make a call and
24 then turn that line over to Mr. Cox?

25 A Well, Mr. Cox numerous times would ask me. He

1 didn't, you know, he used the speaker, I guess he didn't
2 like dialing on the telephone, for what reason, I don't
3 know. Numerous times he would ask me to get somebody
4 on the telephone and I would get him and Mr. Cox would
5 talk to them numerous times.

6 Q It wouldn't be a three-way conversation,
7 would it?

8 A No.

9 Q Did Mr. Cox ever discuss the fact with you
10 that he told Grey that he was going to break his head
11 if he didn't pay? Did Mr. Cox ever discuss or did you
12 ever overhear anything like that ever?

13 A I remember vaguely Mr. Cox shouting at Mr. Grey
14 or he was shouting back and forth because he was
15 threatening him and so forth, but I don't remember Mr.
16 Cox and I don't have to stick up for Mr. Walter Cox.
17 He doesn't mean anything to me. He just got me this
18 individual problem because I'm sitting here in front of
19 you now. I never heard him threaten anybody on the
20 telephone. I heard him get mad on the telephone, use
21 some abusive language because it was used at the other
22 end, too. That what's true is true and he would come
23 back with the same thing. But I never heard him threaten
24 anybody bodily. I wouldn't stay there if he did.

1 Q When you say abusive language --

2 A And I don't have to say this about it. But it's
3 true.

4 Q You have to tell the truth.

5 A I'm telling you the truth. He would get mad, say
6 a few words and so forth, but never threaten anybody
7 bodily.

8 Q When you say --

9 A If he did, I wasn't in the office. I didn't hear
10 it.

11 Q When you say he came back with the same,
12 are you talking about using obscene language or loud
13 language?

14 A Right.

15 Q Did you ever come --

16 A Calling each other names and so forth.

17 Q Did you likewise come back with the same
18 to some people?

19 A No. I was never at any time where I used that
20 type of language personally. Myself on the telephone.
21 They would say that to me at the other end but never came
22 back that way.

23 Q Okay. I would like to ask you about a
24 woman named Marilyn Shi Shi Haieh.

2 Did you ever work on an account of Marilyn
3 Shi Shi's?

4 A Yes, I did.

5 Q Could you give us the details?

6 A Marilyn Shi Shi, an account from us from Tom Boyce's
7 office who is the credit manager from the Desert Inn in
8 Las Vegas. She owed \$25,500.00. She lived in New York
9 and in a penthouse apartment. I had spoken to Madam
10 Shi Shi several times. She acknowledged the debt. She
11 will pay when she's ready to pay. A few times she said
12 she was going to come down and see Mr. Williams, make
13 an appointment. A few times she said she will pay
14 Barbara Boyce, but she never kept her word on anything
15 she said.

16 Q Barbara Boyce is from the Desert Inn,
17 right?

18 A That's right.

19 Q How many calls did you make to Mrs. Shi Shi?

20 A Several.

21 Q Did anybody ever visit her at her penthouse
22 apartment?

23 A Not to my knowledge.

24 Q Did you ever say you were from the Internal
25 Revenue Service?

1

2 A No.

3 Q Did you ever say you were from a lawyer's
4 office or any other pretext?

5 A No.

6 Q Do you know if Mr. Cox using Mr. Williams'
7 name made any calls to Mrs. Shi Shi?

8 A He had spoken to Mrs. Shi Shi, Hidua Chi Shi, yes.
9 What the conversation was, she was supposed to come
10 down. There was an appointment for her to come down
11 to the office once and she never showed up and she made
12 another appointment and she never showed up.

13 Q Do you know the results finally of her
14 account?

15 A No.

16 Q Did you know what kind of business she
17 was in?

18 A I never knew she was in business. My interpretation
19 of her, she was just a very well to do woman. Where she
20 got her money from, I don't know.

21 Q Did you ever contact any of her relatives?

22 A No.

23 Q Sons or daughters?

24 A I have spoken to the daughter once or it was a son.
25 I couldn't tell. It was a young child. Sometimes they

1 sound a male and female sound alike when they are young.
2 I don't know whether it was a son or daughter.

3 Q Did you ever talk to an answering service
4 at her apartment?

5 A Several times, right.

6 Q Doorman?

7 A Yes.

8 Q Would they answer the phone, the doorman?

9 A Oh, no. In other words, I called the doorman to
10 find out Madam Shi Shi before I found out whether she
11 lived there or whether she does live there or whether
12 she's in Europe or so forth.

13 Q Why did both you and Mr. Cox work that
14 account as well?

15 A If you don't mind me saying that's a very foolish
16 question, Mr. Weiner. I wasn't solely working the
17 account. Mr. Cox worked them or someone else would pick
18 them up.

19 Q Did you ever threaten Mrs. Shi Shi?

20 A I told you I never threatened anybody in my life,
21 Mr. Weiner.

22 Q Did you ever say that people in her position
23 who don't cooperate would be known to lose an arm or a leg?

24 A Mr. Weiner, I have never said that. Now, I would

1 like to ask you something. Where did you get a statement
2 like that?

3 Q Well, I'm asking the questions, Mrs. Jacobs.

4 A I have never said anything like that in any time.

5 Q Have you ever heard the name Simola?

6 A It sounds familiar.

7 Q Frank L. Timpa?

8 A Timpa, Timpa. Wasn't that a Provenzano account?
9 I'm not too sure.

10 Q Did you work it?

11 A I may have. It sounds familiar.

12 Q Can I ask you on these accounts that you
13 worked for Mr. Cox specifically, were you on salary with
14 him or would you get an extra bonus or some type of
15 commission if you were successful on collections?

16 A I did not get any bonus if I was successful on
17 collections, whether Mr. Cox would collect a \$10,000.00
18 marker, I would not see a penny of it.

19 Q How much were you paid by Mr. Cox? I know
20 it's complicated because of the part time arrangements.

21 A Right. It was complicated because of the part
22 time arrangements. It was basically, I would draw roughly
23 about \$200.00. I did not receive any monies on any monies
24 that came in on accounts that were collected on markers.

ONLY COPY AVAILABLE

1 Q How about other accounts?

2 A Nothing.

3 Q Does the name Albert M. Tomarkin mean
4 anything?

5 A You want to repeat that?

6 Q Albert Tomarkin.

7 A Yes.

8 Q Who was he?

9 A An account from I believe Caesar's Palace. I'm
10 not too sure. Collected money from that account.

11 Q Do you remember calling a girlfriend of
12 his in Miami, Florida named Lee Eberhard (phonetic), a
13 stewardess?

14 A Do I remember calling?

15 Q Yes.

16 A No, I can't remember.

17 Q Do you remember talking to Mr. Tomarkin
18 yourself?

19 A I spoke several times to Mr. Tomarkin. Not asking
20 him for the money. Mr. Williams spoke to Mr. Tomarkin
21 as far as collecting it. Do you know what I mean?

22 Q Did you speak to his mother in Spring Valley?

23 A I never knew he had a mother.

24 Q Everybody has a mother.

ONLY COPY AVAILABLE

1 A Living.

2 Q You never spoke to Mr. Tomarkin's mother
3 in Spring Valley?

4 A No.

5 MR. WEINER: Any questions?

6 (No response.)

7 MR. WEINER: Mrs. Jacobs, at this
8 time I would like you to return next
9 Monday. Be here at 10 o'clock. You
10 can come to room 327A in the same place
11 that you came.12 THE WITNESS: You mean there are
13 some more questions you want to ask me?

14 MR. WEINER: Yes.

15 THE FOREMAN: Mrs. Jacobs, you
16 are still under subpoena of the Grand Jury.
17 You are to report back here next Monday
18 morning which would be November 11th, at
19 10 o'clock in the morning to room 327A.

20 You are excused at this time.

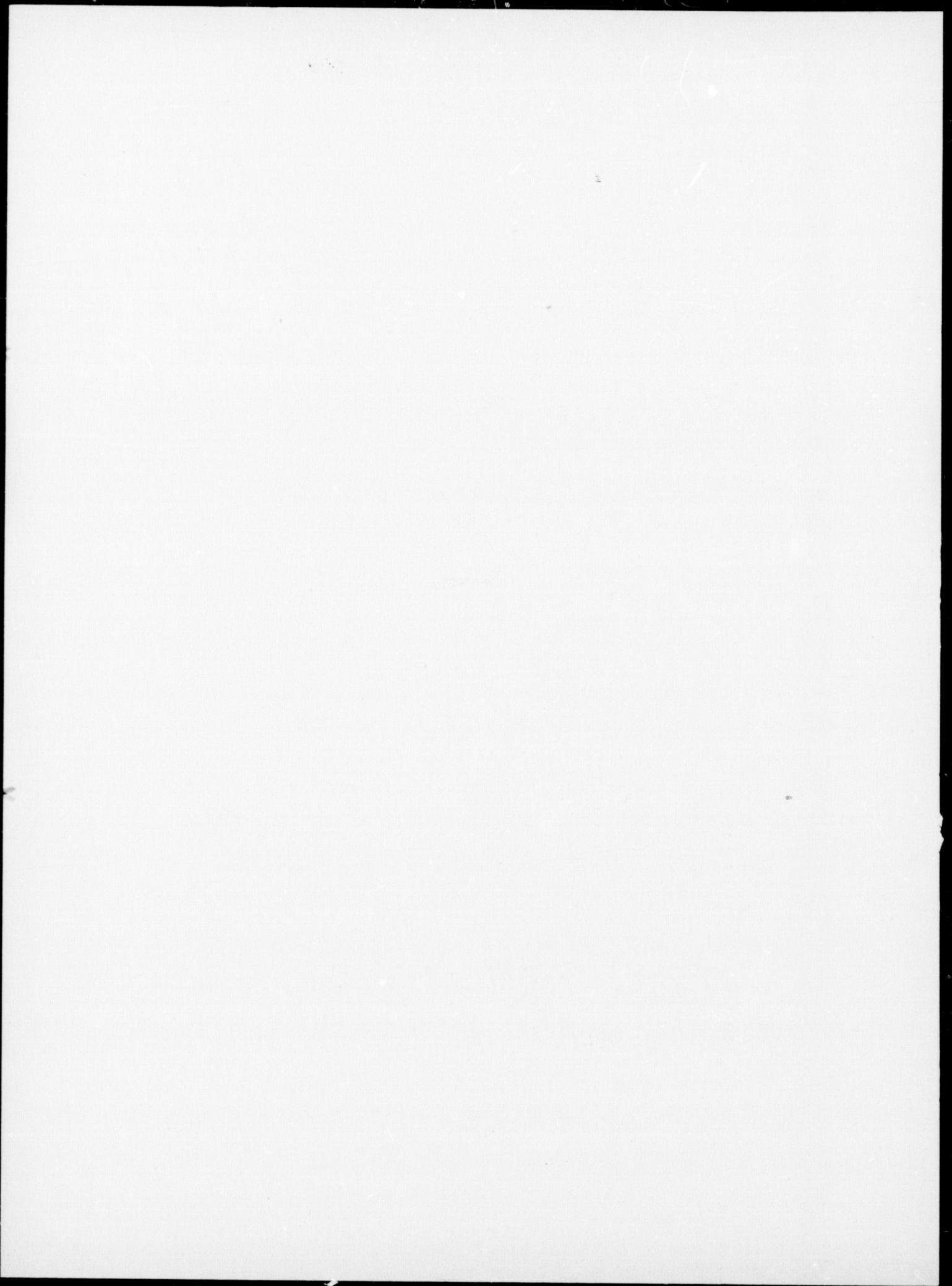
21 (Whereupon, the witness was excused
22 and withdrew.)

23

24

25

APPENDIX F



UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

ONLY COPY AVAILABLE

-----x
UNITED STATES OF AMERICA

74 CR 703

-against-

ESTELLE JACOBS, a/k/a "MRS.
KRAMER",

MEMORANDUM
AND
ORDER

Defendant.

-----x
APPEARANCES:

DAVID G. TRAGER, ESQ.
United States Attorney,
Eastern District of New York
By EDWARD C. WEINER, ESQ.
Special Attorney, United
States Department of Justice

RUBIN, SEIDMAN & DOCHTER, ESQs.
Attorneys for Defendant
By IRVING P. SEIDMAN, ESQ.

NEAHER, District Judge.

The defendant moves to dismiss the indictment on
the ground, inter alia, that when called before the grand
jury to testify, she was not warned that she was a subject of
the investigation.

The facts are not in dispute. The defendant is a
housewife who was employed at various times in a credit

collection agency. She appeared when summoned, without counsel, before a federal grand jury on June 10, 1974 and on November 4, 1974. The government admits that when she was called to testify before the grand jury the defendant was not just another witness, but was in fact a "putative defendant," in that the government had incriminating evidence against her.¹

The warnings given her on each occasion are set forth in the margin.² She was not warned at the time of her first appearance that she was the subject of the investigation. Shortly after her second appearance she was indicted for communicating a threat over the telephone, 18 U.S.C. §875(c), and for perjury before the grand jury, 18 U.S.C. §1623, when she denied the alleged threatening statements.

Jacobs was therefore in much the same situation as the "putative defendants" in United States v. Mandujano, 496 F.2d 1050 (5 Cir. 1974), cert. granted, 95 S.Ct. 1422 (1975), and in United States v. Rangel, 496 F.2d 1059 (5 Cir. 1974). In those cases, the court, underscoring that the questioning proceeded without full Miranda warnings regarding the defendants' rights to remain silent and to appointed counsel, found the questioning concerning criminal activity under the

ONLY COPY AVAILABLE

circumstances to be "beyond the pale of permissible prosecutorial conduct," United States v. Mandujano, supra, 495 F.2d at 1053 (emphasis in original), and a violation of Fifth Amendment Due Process. Id. The court reasoned that grand jury questioning by the prosecutor in such circumstances smacks of entrapment and the baiting of the defendant to commit perjury. Since the defendant in each case was not likely to confess to a crime before the grand jury, "[h]is only 'safe harbor' was to remain silent — a right of which the government failed to inform him." Id. at 1055. While a defendant could have asserted his Fifth Amendment privilege against self-incrimination in such circumstances, the court found the warnings advising of such a right to be minimally adequate at best in a situation where questions were asked calculated to elicit answers that were either incriminatory or perjurious. Under such circumstances, the court held that a full Fifth Amendment warning which includes the right to remain silent must be given. Id. at 1056-57.

In this case Jacobs, brought before the grand jury the first time without being told she was a subject of the investigation³ or that she had the absolute right to remain silent, was asked specific questions concerning the making of

allegedly threatening statements. In framing the questions which are alleged to have resulted in perjury, the prosecutor apparently read from a transcript of the telephone conversation during which the threats were allegedly made. It is now clear that this was possible only because the government had beforehand a tape recording of the conversation allegedly involving the defendant, derived from a phone wiretap. In short, before the defendant made her first appearance before the grand jury, the government prosecutor had undoubtedly made his own factual determination, to his satisfaction, that Jacobs was guilty of the crime about which she was questioned and later indicted. And, simply with the possession of the wiretap tape, the government undoubtedly felt it had all but the identity evidence for probable cause to be found by the grand jury that Jacobs violated 18 U.S.C. 5875(c).⁴

Under the circumstances, asking her if she made the statements the government already had recorded, without fair warning of the trap she was being led into is not permissible prosecutorial conduct.⁵ Had the questions served some useful investigatory function, the conclusion might be otherwise. But no suggestion has been made to the court that such a purpose lay behind the questions, and the court must agree

ONLY COPY AVAILABLE

with defense counsel's assessment that the questions which led to the alleged perjurious responses served no other function than to give the government an additional prop on which to base its case against defendant.

The court therefore sees no reason why the result reached in Mandujano should not control here. The Mandujano court simply concluded that the prosecutorial conduct involved was "so 'offensive to the common and fundamental ideas of fairness' as to amount to a denial of due process." 495 F.2d at 1059. We have reviewed the authorities cited by the government which are said to suggest a contrary result. None of the cases cited suggests either that no grand jury questioning of a putative defendant can ever amount to a deprivation of due process⁶ or that due process should not be tested in such cases by an appraisal of all the relevant facts and circumstances.

On such an appraisal, the court concludes that the entire grand jury proceeding was a violation of Jacobs' due process rights under the Fifth Amendment. Consequently, all her grand jury testimony must be suppressed and the perjury count, being based solely upon such testimony, must be dismissed.

The defendant's various motions to dismiss are otherwise denied in accordance with the views expressed by the court at oral argument. Discussion of any other outstanding matters is reserved for September 18, 1975, at 10:00 a.m., at which time a prompt date for trial of the indictment will be set.

SO ORDERED.

/s/ EDWARD R. MEAHER
U. S. D. J.

Dated: Brooklyn, New York
July 21, 1975

FOOTNOTES

ONLY COPY AVAILABLE

¹ The grand jury transcript of November 4, 1974 (at p. 4) makes it clear that the defendant was a "subject" of the grand jury investigation, and government counsel who conducted the grand jury investigation, Edward C. Weiner, Esq., admitted this in open court and in his brief (at p. 15). Moreover, an internal Department of Justice memorandum, February 15, 1974, disclosed to the court in connection with defendant's argument that Mr. Weiner lacked proper authorization to appear before the grand jury, reveals that the defendant was indeed a target of the grand jury investigation.

² June 10, 1974:

"Q. Mrs. Kramer, I want to explain to you your various Constitutional rights that you have as a witness who appears before a Federal Grand Jury. I want to tell you that this is a Federal Grand Jury inquiring into the possibility of a violation of the Federal Criminal Law, and the first right you have is the right under the Fifth Amendment to refuse to answer any question that you feel might tend to incriminate you; do you understand what your rights are under the Fifth Amendment?

"A. Yes. ..

"Q. At any time you feel the questions I am asking may tend to incriminate you, you will not be obliged to answer those questions; do you understand that?

"A. Yes, I do.

* * * * *

"Q. Now, the next right you have under the Sixth Amendment, is the right to counsel;

you can have a lawyer of your choice outside of the Grand Jury room to assist you with any questions that you may have a question with. . you may have an opportunity to leave the Grand Jury room and consult with your attorney, do you understand that right?

"A. Yes, I do.

"Q. Do you have an attorney with you today?

"A. No, I do not.

"Q. Now, do you feel the need of one?

"A. I do not."

Transcript at 2-3.

November 4, 1974:

"Q. I believe you appeared before this Grand Jury on June 10, 1974, is that correct?

"A. That's correct.

"Q. At that time, Mrs. Jacobs, I explained to you your various Constitutional rights.

Do you have any questions now about those rights?

"A. No.

[Government counsel then repeated substantially the Fifth Amendment privilege and right to counsel warnings as above set forth.]

"Q. If at any time you would like to interrupt the proceedings and call an attorney, let us know and you will be given the opportunity.

ONLY COPY AVAILABLE

"A. There is one question as to Mr. Weiner —

"Q. Yes.

"A. I'm here and you are asking me if I feel — I don't know why I'm here, Mr. Weiner, to be very honest with you. You are implying do I feel, do I need an attorney. I have asked you repeatedly why am I here.

"Q. You are a subject of this investigation, Mrs. Jacobs.

"A. I told you everything I know, Mr. Weiner.

"Q. I have some additional questions and that's why you're here today."

Transcript at 2-4.

³ She was only told this at her second appearance, see n. 2 *supra*, while the basis of the perjury count was her testimony at her first appearance.

⁴ Further, the government's own brief (at 12) admits that the grand jury was presented with sufficient independent identity evidence.

⁵ See United States v. Washington, 328 A.2d 98, 100 (D.C.C.A. 1974), which found the failure to advise the defendant that he was a potential defendant contravened Standard 3.6(d) of the ABA Project on Standards for Criminal Justice, The Prosecution Function. That section provides:

"If the prosecutor believes that a witness is a potential defendant he should not seek to compel his testimony before the grand jury without

ONLY COPY AVAILABLE

informing him that he may be charged and that he should seek independent legal advice concerning his rights."

6

See, e.g., United States v. Corrallo, 413 F.2d 1306 (2 Cir.), cert. denied, 396 U.S. 958 (1969), in which warnings that the defendants were subjects of the investigation were given. Id. at 1328 & 1329 n. 6. In United States v. Winter, 348 F.2d 204 (2 Cir.), cert. denied, 382 U.S. 955 (1965), the court found a much clearer legitimate interest in the defendant's being summoned before the grand jury. Id. at 208. In United States v. Scully, 225 F.2d 113 (2 Cir.), cert. denied, 350 U.S. 897 (1955), it was far from clear that Scully was "marked for prosecution." Id. at 114.

The government's other cited authorities are either similarly inapposite or support the conclusion reached here. E.g., United States v. Luxenberg, 374 F.2d 241, 246 (6 Cir. 1967), citing Stanley v. United States, 245 F.2d 427, 434 (6 Cir. 1957), both cited by the government, states that

"a person who is virtually in the position of a defendant must be accorded the same rights as a defendant."

APPENDIX G

Typed 2/20/74
HEP:PEG:ght

February 20, 1974

Mr. Edward C. Weiner
Criminal Division
Department of Justice
Washington, D. C.

Dear Mr. Weiner:

The Department is informed that there have occurred and are occurring in the Eastern District of New York and other judicial districts of the United States violations of federal criminal statutes by persons whose identities are unknown to the Department at this time.

As an attorney at law you are specially retained and appointed as a Special Attorney under the authority of the Department of Justice to assist in the trial of the aforesaid cases in the aforesaid district and other judicial districts of the United States in which the Government is interested. In that connection you are specially authorized and directed to file informations and to conduct in the aforesaid district and other judicial districts of the United States any kind of legal proceedings, civil or criminal, including grand jury proceedings and proceedings before committing magistrates, which United States Attorneys are authorized to conduct.

Your appointment is extended to include, in addition to the aforesaid cases, the prosecution of any other such special cases arising in the aforesaid district and other judicial districts of the United States.

You are to serve without compensation other than the compensation you are now receiving under existing appointment.

Please execute the required oath of office and forward a duplicate thereof to the Criminal Division.

Sincerely,

HENRY E. PETERSEN
Assistant Attorney General

Mr. Washington
Attorney File

UNITED STATES GOVERNMENT

DEPARTMENT OF JUSTICE

Memorandum

TO : Henry E. Petersen
Assistant Attorney General
Criminal Division

DATE: February 15, 1974

FROM : William S. Lynch, Chief
Organized Crime and Racketeering Section

ETJ:jeo

SUBJECT: Grand Jury Authority

It is requested that Grand Jury authority be prepared and issued to Edward C. Weiner for the Eastern District of New York. This authorization is needed for his assistance in United States v. John Doe (Woods and Jacobs, 18 U.S.C. 1951).

This authorization is needed by February 21, 1974.

